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WASHINGTON, DC

WHEN: November 14, 2000, at 9:00 a.m.

WHERE: Office of the Federal Register
Conference Room
800 North Capitol Street, NW.
Washington, DC
(3 blocks north of Union Station Metro)

RESERVATIONS: 202–523–4538

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Separate Parts In This Issue

Reader Aids
Consult the Reader Aids section at the end of this issue for phone numbers, online resources, finding aids, reminders, and notice of recently enacted public laws.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

Rules and Regulations

Federal Register
Vol. 65, No. 204
Friday, October 20, 2000

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 351

RIN 3206–AJ14

Reduction in Force Retreat Rights

AGENCY: Office of Personnel Management.

ACTION: Interim rule with request for comments.

SUMMARY: The Office of Personnel Management is issuing an interim retention regulation that clarifies a released employee's potential right to ''Retreat'' to another position in a reduction in force. This regulation states that an agency determines the potential grade range of a released employee's retreat right solely upon the position held by the employee on the effective date of the reduction in force rather than the grade range of the position to which the employee may have a right to retreat.

DATES: This regulation is effective on October 20, 2000. Written comments will be considered if received no later than December 19, 2000.

ADDRESSES: Send written comments to Carol J. Okin, Associate Director for Employment, Office of Personnel Management, Room 6F08, 1900 E Street, NW., Washington, DC 20415.

FOR FURTHER INFORMATION CONTACT: Thomas A. Glennon or Jacqueline R. Yeatman, 202–606–0960, FAX 202–606–2329.

SUPPLEMENTARY INFORMATION:

Purpose of This Interim Retreat Regulation

This interim regulation clarifies OPM's longstanding policy that an agency determines the grade or grade-interval range of a released employee's potential retreat rights solely on the basis of the official position of record held by the employee on the effective date of the reduction in force. See 51 FR 319 (January 3, 1986). In determining an employee's potential retreat rights, an agency does not consider the grade or grade-interval range of the position to which the employee may have a retreat right.

OPM is publishing this interim regulation in response to a January 28, 2000, decision by the United States Court of Appeals for the Federal Circuit in *Henderson* v. *Department of the Interior*, 202 F.3d 1356 (Fed. Cir. 2000). In *Henderson*, the Court interpreted our regulations as meaning something different from what OPM had intended. As a result, the Court found that an agency determines an employee's potential retreat right, in part, on the basis of the grade or grade-interval range of the position to which the employee may have a right to retreat. This new interim regulation reinforces OPM's intent that an agency determines an employee's potential retreat rights only on the basis of the employee's current official position of record.

Employees' Retreat Rights

Section 351.603 of OPM's retention regulations provides that a permanent competitive service employee who is released from a competitive level as the result of reduction in force competition has a potential ''Bump'' or ''Retreat'' right to other continuing positions before involuntary separation. For reference, OPM published a comprehensive history and explanation of the retreat right in the Supplementary Information section of final regulations that were published in the **Federal Register** on June 15, 1998, at 63 FR 32593.

Consideration of Grade Limits in Determining Employees' Retreat Rights

OPM's reduction in force regulations generally limit the grade limits of an employee's potential bump and retreat rights to positions that are within, as appropriate, three grades or grade-intervals of the official position held on the effective date of the reduction in force. In addition, a preference eligible employee who competes under OPM's retention regulations in retention tenure subgroup I–AD on the basis of a service-connected compensable disability of 30% (or higher) has a potential retreat right to positions that are within, as appropriate, five grades or grade intervals of the official position held on the effective date of the reduction in force.

Waiver of Notice of Proposed Rulemaking and Delay in Effective Date

Pursuant to 5 U.S.C. 553(b)(3)(B), I find that good cause exists for waiving the general notice of proposed rulemaking because it would be contrary to the public interest to delay access to benefits provided by law. Also, pursuant to 5 U.S.C. 553(d)(3), I find that good cause exists to waive the effective date and make this amendment effective in less than 30 days in order to provide eligible displaced employees with the full benefit of their retreat rights at the earliest practicable date.

Regulatory Flexibility Act

I certify that this regulation will not have a significant economic impact on a substantial number of small entities because it affects only certain Federal employees.

Executive Order 12866, Regulatory Review

This rule has been reviewed by the Office of Management and Budget in accordance with Executive Order 12866.

List of Subjects in 5 CFR Part 351

Administrative practice and procedure, Government employees.

Office of Personnel Management.

Janice R. Lachance,

Director.

Accordingly, OPM is amending part 351 of title 5, Code of Federal Regulations, as follows:

PART 351—REDUCTION IN FORCE

1. The authority citation for part 351 continues to read as follows:

Authority: 5 U.S.C. 1302, 3502, 3503; sec. 351.801 also issued under E.O. 12828, 58 FR 2965.

2. Section 351.701(c) is revised to read as follows:

§ 351.701 Assignment involving displacement.

* * * * *

(c) *Same subgroup-retreating.* A released employee shall be assigned in accordance with paragraphs (a) and (d) of this section and retreat to a position that:

(1) Is held by another employee with lower retention standing in the same tenure group and subgroup; and

(2) Is not more than three grades (or appropriate grade intervals or equivalent) below the position from which the employee was released, except that for a preference eligible employee with a compensable service-connected disability of 30 percent or more the limit is five grades (or appropriate grade intervals or equivalent). (The agency uses the grade progression of only the released employee's position of record to determine the applicable grades (or appropriate grade intervals or equivalent) of the employee's retreat right. The agency does not consider the grade progression of the position to which the employee has a retreat right.); and

(3) Is the same position, or an essentially identical position, formerly held by the released employee on a permanent basis as a competing employee in a Federal agency (i.e., when held by the released employee in an executive, legislative, or judicial branch agency, the position would have been placed in tenure groups I, II, or III, or equivalent). In determining whether a position is essentially identical, the determination is based on the competitive level criteria found in § 351.403, but not necessarily in regard to the respective grade, classification series, type of work schedule, or type of service, of the two positions.

* * * * *

[FR Doc. 00–26945 Filed 10–19–00; 8:45 am]

BILLING CODE 6325–01–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 932

[Docket No. FV00–932–3 FR]

Olives Grown in California; Modification to Handler Membership on the California Olive Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule modifies the handler membership on the California Olive Committee (Committee). The Committee locally administers the California olive marketing order (order) which regulates the handling of olives grown in California. The Committee is composed of 16 industry members of which 8 are producers and 8 are handlers. Current handler representation on the Committee provides that the two handlers who handled the largest and second largest total volume of olives during the crop year in which nominations were made and in the preceding crop year shall be represented by three members and alternate members each, and that the remaining handler shall be represented by two members and alternate members. Recently, one of the handlers indicated that it was exiting the business, and no longer desired to serve on the Committee. This rule reallocates handler membership and enables the Committee to operate at full strength.

EFFECTIVE DATE: October 23, 2000.

FOR FURTHER INFORMATION CONTACT: Rose Aguayo, Marketing Specialist, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (559) 487–5901, Fax: (559) 487–5906; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491; Fax: (202) 720–5698.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698, or E-mail: Jay.Guerber@usda.gov.

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement No. 148 and Order No. 932, both as amended (7 CFR part 932), regulating the handling of olives grown in California, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This action is not intended to have retroactive effect. This final rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review the Secretary's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This final rule modifies the order's administrative rules and regulations regarding the structure of handler membership on the Committee. The change in structure was unanimously recommended by the Committee.

Section 932.25 of the order provides for the establishment of the Committee to locally administer the terms and provisions of the order. The Committee is composed of 16 industry members, each with an alternate. Of the 16 industry members, 8 are producers and 8 are handlers. This section also specifies how the handler membership on the Committee is allocated. Authority is provided for the Committee, with the approval of the Secretary, to change the allocation of both producer and handler members as may be necessary to assure equitable representation.

Based on this authority, § 932.159 of the administrative rules and regulations currently provides that the two handlers who handled the largest and second largest total volume of olives during the crop year in which nominations were made and in the preceding crop year shall be represented by three members and alternate members each, and the remaining handler shall be represented by two members and alternate members. This reallocation was implemented in January of 1999 (64 FR 4286) with an interim final rule. Comments were invited until March 29, 1999. The interim final rule was adopted without change in a final rule in April of 1999 (64 FR 23009).

The structure of the olive industry has changed over the years and the number of handlers, both cooperative and independent (or handlers not affiliated with a cooperative marketing organization), has decreased. At one time, there were a number of cooperative marketing organizations and independent handlers and the

Committee's structure was designed so that four of the eight handler seats were held by cooperatives and four were held by independents. This representation was also weighted by the volume of olives handled so that if one group, either cooperatives or independents, handled 65 percent or more of the total industry's volume handled during the nominating crop year and the preceding crop year, that group would have five seats on the Committee and the other group would have three seats.

In 1993, handler membership on the Committee was reallocated to reflect changes within the handler segment of the industry. The number of industry handlers declined to only five handlers—one cooperative and four independents. At that time, § 932.159 of the order's rules and regulations was modified to reapportion handler membership to provide cooperative handlers with two seats on the Committee and independent handlers with six seats.

When the number of handlers declined to one cooperative and two independent handlers, and restrictions on handler affiliation resulted in two vacant handler positions on the Committee, changes on handler allocation were implemented to allow those positions to be filled and to enable the Committee to operate at full strength. Section 932.159 was revised (64 FR 4286, January 28, 1999; 64 FR 23009, April 29, 1999) to eliminate the distinction between cooperative marketing organizations and independent handlers and § 932.160 on handler affiliation was removed. The eight handler seats on the Committee were reallocated based on the total volume of olives handled during the crop year in which nominations are made and the preceding crop year, with the handlers handling the first and second largest volume being represented by three members each, and the remaining handler being represented by two members.

Recently, one handler in the industry indicated that it was exiting the business, will no longer be handling olives after it markets its old crop inventory, and, that it no longer desired to serve on the Committee. The Committee met and unanimously recommended modifying the rules and regulations to reallocate handler membership equally between the two other handlers. Each handler will be represented by four handlers and four alternates. This rule modifies the Committee's handler membership to enable the Committee to operate at full strength; *i.e.,* with the eight handler and eight producer positions filled.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this final rule on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are 3 handlers of California olives who are subject to regulation under the marketing order and approximately 1,200 olive producers in the regulated area. One of these handlers informed the Committee that it plans to exit the industry, and will no longer be handling olives after it markets its old crop inventory. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000. None of the olive handlers may be classified as small entities.

A review of historical and preliminary information pertaining to the 1999–00 crop year (August 1 through July 31) indicates that total grower revenue for the 1999 crop will be approximately $39,500,000, and the average grower revenue will be approximately $33,000. Thus, it can be concluded that the majority of producers of California olives may be classified as small entities.

This rule modifies the rules and regulations of the olive order regarding the structure of handler membership on the Committee. Section 932.25 of the order provides for the establishment of the Committee to locally administer the terms and provisions of the order. The Committee is composed of 16 industry members, each with an alternate. Of the 16 industry members, 8 are producers and 8 are handlers. This section also specifies how the handler membership on the Committee is allocated. Authority is provided for the Committee, with the approval of the Secretary, to change the allocation of both producer and handler members as may be necessary to assure equitable representation.

Section 932.159 of the administrative rules and regulations provides that the two handlers who handled the largest and second largest total volume of olives during the crop year in which nominations were made and in the preceding crop year shall be represented by three members and alternate members each, and the remaining handler shall be represented by two members and alternate members.

The structure of the olive industry has changed over the years and the number of handlers, both cooperative and independent, has decreased. At one time, there were a number of cooperative marketing organizations and independent handlers and the Committee's structure was designed so that four of the eight handler seats were held by cooperatives and four were held by independents. This representation was also weighted by the volume of olives handled so that if one group, either cooperatives or independents, handled 65 percent or more of the total industry's volume handled during the nominating crop year and the preceding crop year, that group would have five seats on the Committee and the other group would have three seats.

In 1993, handler membership on the Committee was reallocated to reflect changes within the industry. The number of industry handlers declined to only five handlers—one cooperative and four independents. At that time, § 932.159 of the order's rules and regulations was modified to reapportion handler membership to provide cooperative handlers with two seats on the Committee and independent handlers with six seats.

When the number of handlers declined to one cooperative and two independent handlers, and restrictions on handler affiliation resulted in two vacant handler positions on the Committee, changes on handler allocation were implemented to allow these positions to be filled and to enable the Committee to operate at full strength. Section 932.159 was revised (64 FR 4286, January 28, 1999; 64 FR 23009, April 29, 1999) to eliminate the distinction between cooperative marketing organizations and independent handlers and § 932.160 on handler affiliation was removed. The eight handler seats on the Committee were reallocated based on the total volume of olives handled during the crop year in which nominations are made and the preceding crop year, with the handlers handling the first and second largest volume being represented by three members each, and the remaining handler being represented by two members.

Recently, one of the handlers indicated that it was exiting the

business, will no longer be handling olives after it markets its old crop inventory, and that it no longer desired to serve on the Committee. The Committee unanimously recommended modifying the rules and regulations to reallocate handler membership equally between two handlers with each handler represented by four members and four alternates. This rule enables the Committee to operate at full strength; i.e., with the eight handler and eight producer positions filled.

One alternative to this rule discussed at the meeting was to leave the language in § 932.159 unchanged; however, the current language is no longer appropriate. The current language specifies that the two handlers who handled the largest and second largest volume of olives during the crop year in which nominations are made and in the preceding crop year shall be represented by three members and alternate members each, and that the remaining handler shall be represented by two members and two alternate members. Since one of the remaining handlers no longer desires to serve on the Committee, the language concerning the two seats allocated to the third handler is no longer appropriate. Therefore, the Committee recommended that handler membership be reallocated equally between two handlers and that each handler be represented by four members and four alternate members.

This final rule will not impose any additional reporting or recordkeeping requirements on either of the two olive handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. In addition, the Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

Further, the Committee's meeting was widely publicized throughout the olive industry and all interested persons were invited to attend the meeting and participate in Committee deliberations on all issues. Like all Committee meetings, the meeting at which the recommendation was made was a public meeting and all entities, both large and small, were able to express their views on this issue. All of the industry handlers currently represented on the Committee participated in the deliberations. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this action on small businesses.

A proposed rule concerning this action was published in the **Federal Register** on September 11, 2000 (65 FR 54818). Copies of the rule were mailed or sent via facsimile to all Committee members and olive handlers. Finally, the rule was made available through the Internet by the Office of the **Federal Register**. A 30-day comment period ending October 11, 2000, was provided to allow interested persons to respond to this proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at the following website: http://www.ams.usda.gov/fv/moab.html. Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C.) because the two vacant handler member seats on the Committee should be filled as soon as possible, so that the Committee can operate at full strength. Further, handlers are aware of this rule, which was recommended at a public meeting. Also, a 30-day comment period was provided for in the proposed rule and no comments were received.

List of Subjects in 7 CFR Part 932

Marketing agreements, Olives, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 932 is amended as follows:

PART 932—OLIVES GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 932 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 932.159 is revised to read as follows:

§ 932.159 Reallocation of handler membership.

Pursuant to § 932.25, handler representation on the Committee is reallocated to provide that the two handlers who handled the largest and second largest total volume of olives during the crop year in which nominations are made and in the preceding crop year shall each be represented by four members and four alternate members.

Dated: October 17, 2000.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 00–27082 Filed 10–17–00; 5:09 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 98–NM–35–AD; Amendment 39–11933; AD 2000–21–01]

RIN 2120–AA64

Airworthiness Directives; Lockheed Model L–1011–385 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all Lockheed Model L–1011–385 series airplanes, that requires repetitive inspections to detect corrosion or fatigue cracking of certain structural elements of the airplane; corrective action, if necessary; and incorporation of certain structural modifications. This amendment is prompted by new recommendations related to incidents of fatigue cracking and corrosion in transport category airplanes that are approaching or have exceeded their economic design goal. The actions specified by this AD are intended to prevent corrosion or fatigue cracking of certain structural elements, which could result in reduced structural integrity of the airplane.

DATES: Effective November 24, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 24, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register,

800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Thomas Peters, Aerospace Engineer, Systems and Flight Test Branch, ACE–116A, FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia 30349; telephone (770) 703–6063; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to all Lockheed Model L–1011–385 series airplanes was published in the **Federal Register** on June 25, 1999 (64 FR 34170). That action proposed to require repetitive inspections to detect corrosion or fatigue cracking of certain structural elements of the airplane; corrective action, if necessary; and incorporation of certain structural modifications.

Explanation of New Service Information

Since the issuance of the notice of proposed rulemaking (NPRM), the FAA has reviewed and approved Lockheed Service Bulletin 093–51–040, Revision 2, dated October 21, 1999. The actions described in Revision 2 of the service bulletin are essentially similar to those described in Lockheed Service Bulletin 093–51–040, Revision 1, dated October 1, 1997 (which was referenced as the applicable source of service information for accomplishment of the actions specified in the NPRM). Revision 2 of the service bulletin corrects and updates certain references, and adds and revises certain ''notes'' to improve clarity. Therefore, the FAA finds that either Revision 1 or Revision 2 of Lockheed Service Bulletin 093–51–040 (hereinafter referred to as ''the Collector Service Bulletin'') is an acceptable source of service information for the actions required by this AD.

However, certain new revisions of the individual service bulletins listed in Tables I and II of Revision 2 of the Collector Service Bulletin have reduced the compliance times for certain actions below what was specified in the individual service bulletins listed in Revision 1 of the Collector Service Bulletin. The FAA finds that to reduce the compliance times in this way would necessitate issuance of a supplemental NPRM and reopening of the comment period to allow adequate time for public comment. The FAA finds that it is inappropriate to further delay issuance of the final rule in this way. Therefore, while this AD allows accomplishment of the actions in this AD in accordance with either Revision 1 or Revision 2 of the Collector Service Bulletin, the applicable compliance thresholds and repetitive intervals are those listed in the individual service bulletins listed in Tables I and II of Revision 1. Paragraphs (a)(1) and (a)(2), which specify the compliance times for paragraph (a) of this AD, reference only Revision 1 of the Collector Service Bulletin, and a new note, ''Note 2,'' has been added to this final rule to clarify this issue.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Support for the Proposed Rule

One commenter supports the proposed rule.

Provide Grace Period for Certain Inspections in Paragraph (a)

One commenter notes that, though paragraph (a)(2) of the proposed rule provides a grace period of ''one repetitive interval after the effective date of this AD'' for the inspections specified in paragraph (a) of the proposed rule, certain inspections are one-time inspections and, therefore, do not have a repetitive interval.

The commenter makes no specific request for a change to the proposed rule. However, the FAA infers that the commenter is requesting that the FAA clarify the grace period for accomplishment of the subject one-time inspections. The FAA concurs that some clarification is needed, and notes that the inspections without repetitive intervals in Table I reference ''Footnote 3,'' which provides a grace period of the ''next 'C' check not to exceed 14 months for aircraft exceeding threshold.'' The FAA finds that a grace period of 14 months is adequate to ensure that the unsafe condition is addressed in a timely manner, without adversely affecting the safety of the airplane fleet. Therefore, paragraph (a)(2) of this AD has been revised to specify a grace period of 14 months after the effective date of this AD for the service bulletins listed in Tables I and II of the Collector Service Bulletin that do not specify a repetitive interval.

Eliminate Duplicate Requirements

One commenter questions whether the repetitive inspections specified in Lockheed Service Bulletin 093–53–258, Revision 1, dated April 4, 1996, as listed in Table II of the Collector Service Bulletin, should be included in the proposed rule. The commenter notes that these inspections are already required by AD 95–17–03, amendment 39–9332 (60 FR 40753, August 10, 1995).

The commenter makes no specific request for a change to the proposed rule; however, the FAA infers that it is requesting that this AD eliminate the inspections in Lockheed Service Bulletin 093–53–258, Revision 1, from the requirements of this AD. The FAA concurs. While the AD referenced by the commenter requires inspections with the original issue of Lockheed Service Bulletin 093–53–258, dated February 20, 1990, the FAA finds that the inspections in accordance with that bulletin, as required by AD 95–17–03, are acceptable for compliance with this AD. Therefore, the FAA has revised paragraph (b) of this AD to state that the structural inspections specified in Lockheed Service Bulletin 093–53–258, Revision 1, are not required by this AD, and that equivalent inspections are already required by AD 95–17–03. The modifications of Lockheed Service Bulletin 093–53–258, Revision 1, that terminate the inspections currently required by AD 95–17–03 are required by this AD.

The same commenter questions why the inspections in Lockheed Service Bulletin 093–57–203, Revision 5, dated April 22, 1996, are included in the requirements of paragraph (a) of the proposed AD. The commenter points out that paragraph (e) of the proposed rule would require installation of the terminating modification in Lockheed Service Bulletin 093–57–215, dated April 11, 1996, which eliminates the need for the inspections in Lockheed Service Bulletin 093–57–203, Revision 5.

The FAA concurs with the commenter's intent, though not for the reason stated by the commenter. Accomplishment of the inspections described in Lockheed Service Bulletin 093–57–203 is necessary to ensure continued safety of the airplane fleet until accomplishment of Lockheed Service Bulletin 093–57–215. However, the FAA notes that inspections similar to those specified in Lockheed Service Bulletin 093–57–203, Revision 5, are currently required by AD 98–10–14, amendment 39–10526 (63 FR 26966, May 15, 1998). (AD 98–10–14 requires inspections in accordance with Lockheed Service Bulletin 093–57–203, Revision 4, dated March 27, 1995, or Revision 6, dated August 18, 1997.) Thus, including these inspections in this AD would unnecessarily duplicate compliance requirements. Therefore, paragraph (b) of this AD has been revised to state that the structural

inspections specified in Lockheed Service Bulletin 093–57–203, Revision 5, are not required by this AD, and that equivalent inspections are already required by AD 98–10–14. The terminating modifications of Lockheed Service Bulletin 093–57–215 are required by this AD.

Request To Acknowledge Superseding Requirement

One commenter notes that the inspections specified in Lockheed Service Bulletin 093–53–249 are currently required as part of the requirements of AD 94–05–01, amendment 39–8839 (59 FR 10275, March 4, 1994). (AD 94–05–01 requires accomplishment of Lockheed Service Bulletin 093–51–035, dated June 28, 1990—an older ''Collector'' service bulletin.) However, the proposed AD would reduce the repetitive inspection interval for the inspections in that bulletin from 5,000 to 4,500 flight cycles. The commenter requests that language be added to the proposed rule to acknowledge that accomplishment of the repetitive inspections in Lockheed Service Bulletin 093–53–249, Revision 3, dated February 28, 1994, at 4,500 flight cycle intervals, in accordance with this AD, eliminates the need to record accomplishment of the inspections in that service bulletin as required by AD 94–05–01. The commenter notes that this will eliminate confusion and dual compliance tracking for operators.

The FAA partially concurs with the commenter's request. Because AD 94–05–01 requires accomplishment of another ''Collector'' service bulletin, which lists numerous service bulletins, the FAA is unable to revise the requirement to accomplish the actions in only one of those service bulletins without superseding that entire AD. Such an action cannot be undertaken in the context of this rulemaking action. Therefore, all of the requirements of AD 94–05–01 are still applicable. As noted by the commenter, this results in two parallel inspection requirements; operators will be responsible for tracking compliance for both requirements. However, the FAA notes that the inspection in accordance with Lockheed Service Bulletin 093–53–249, Revision 3, need only be accomplished at the 4,500-flight-cycle interval required by this AD. To clarify this, a new note ''Note 3'' has been added following paragraph (a)(2) of this AD, to state, ''The inspections specified in Lockheed Service Bulletin 093–53–249, Revision 3, dated February 28, 1994, are included in the requirements of both AD 94–05–01, amendment 39–8839, and paragraph (a) of this AD. Inspections in accordance with Lockheed Service Bulletin 093–53–249, Revision 3, at the interval specified in Table I of Lockheed Service Bulletin 093–51–040, Revision 1, as required by this AD, are acceptable for compliance with the inspections in accordance with Lockheed Service Bulletin 093–53–249, Revision 3, required by AD 94–05–01.''

Require Overhaul of Main Landing Gear Actuator

One commenter states that one of the purposes of Revision 1 of the Collector Service Bulletin was to require overhaul of the main landing gear (MLG) actuator within 10 years after previous modification or overhaul. The proper procedures for the MLG overhaul are described in Change Notice (CN) 1, dated September 21, 1998, for Lockheed Service Bulletin 093–32–238, Revision 3. However, Revision 1 of the Collector Service Bulletin references Lockheed Service Bulletin 093–32–238, Revision 3, with no mention of CN 1. The commenter asserts that the proposed AD would not mandate the MLG overhaul as intended.

The commenter makes no specific request for a change to the proposed AD. However, the FAA infers that the commenter is requesting that the proposed rule be revised to reference CN 1 of the subject service bulletin. The FAA partially concurs. The FAA acknowledges that the current version of Lockheed Service Bulletin 093–32–238 is Revision 3, as revised by CN 1. The FAA also notes that Revision 2 of the Collector Service Bulletin incorporates the correct reference. However, to revise the proposed AD to specify overhaul of the MLG actuator in accordance with Lockheed Service Bulletin 093–32–238, Revision 3, as revised by CN 1, would necessitate reopening the comment period to allow adequate time for public comment. Because of the criticality of the unsafe condition addressed in this AD, the FAA finds that to delay issuance of the final rule in this way would be inappropriate. However, the FAA is considering further rulemaking to ensure that overhaul of the MLG actuator is accomplished in a timely manner in accordance with Lockheed Service Bulletin 093–32–238, Revision 3, as revised by CN 1. A new paragraph, paragraph (e), has been added to this final rule (and subsequent paragraphs have been reordered accordingly) to specify that overhaul of the main landing gear actuator in accordance with Lockheed Service Bulletin 093–32–238, Revision 3, dated April 11, 1996, as listed in Table II of Lockheed Service Bulletin 093–51–040, Revision 1, dated October 1, 1997, is not required by paragraph (d) of this AD.

Extend Compliance Times

One commenter expresses concern regarding the inspections specified in Lockheed Service Bulletin 093–53–270, Revision 1, dated August 23, 1996, and the modification specified in Lockheed Service Bulletin 093–53–271, dated October 18, 1995. The commenter operates several airplanes modified in accordance with a certain supplemental type certificate. The configuration of those airplanes will necessitate request for approval of alternative methods of compliance (AMOC) for the actions specified in these service bulletins. The commenter is concerned that it will not be able to accomplish the AMOC's within the compliance time proposed in this AD for those actions.

The commenter makes no specific request for a change to this AD. However, the FAA infers that it is requesting extension of the compliance time for the subject requirements. The FAA does not concur that such an extension is appropriate. The inspection threshold of 13,000 or 9,000 flight cycles (depending on airplane configuration) and repetitive inspection interval of 2,500 flight cycles for the actions in Lockheed Service Bulletin 093–53–270, Revision 1, and the threshold of 20,000 flight cycles for the actions in Lockheed Service Bulletin 093–53–271, were established based on consideration of structural damage risk, damage probability, and damage growth rate. As noted by the commenter, if the commenter's unique circumstances make it impossible to comply with the requirements of this AD as written, it will need to submit a request for approval of an AMOC, in accordance with paragraph (g) of this AD. The FAA finds that the compliance time is adequate for the commenter to submit its request for approval of an AMOC and for the FAA to review the request. No change to the final rule is necessary in this regard.

Clarify Terminating Action

One commenter requests that the proposed rule be revised to clearly indicate which revisions of the service bulletins associated with the rear spar modification are acceptable for terminating the rear spar inspections described in Lockheed Service Bulletin 093–57–203 (which, as described previously, are currently required by AD 98–10–14). The commenter notes that Revision 1 of the Collector Service Bulletin lists Lockheed Service Bulletin 093–57–184, Revisions 2 through 7, and Service Bulletin 093–57–196, Revisions

1 through 6, as acceptable sources for instructions for the rear spar modifications. However, AD 98–10–14 lists only Lockheed Service Bulletin 093–57–184, Revision 6, dated October 28, 1991, and Revision 7, dated December 6, 1994, and Service Bulletin 093–57–196, Revision 5, dated October 28, 1991, and Revision 6, dated December 6, 1994, as sources of service information for the modifications of the rear spar to terminate the repetitive inspections required by AD 98–10–14.

The FAA does not concur and has determined that no change to the final rule is necessary relevant to the commenter's request. This determination is based on the following:

- As explained previously, structural inspections equivalent to those specified in Lockheed Service Bulletin 093–57–203, Revision 5, are required by AD 98–10–14. [Paragraph (b) of this final rule has been revised to clarify this information.]
- AD 98–10–14 correctly states terminating action for the requirements of that AD. Therefore, use of any other revision to accomplish the modifications would necessitate request for approval of an AMOC in accordance with paragraph (c) of AD 98–10–14.
- Current revisions of the referenced modification bulletins, as well as Revision 2 of the Collector Service Bulletin (described previously), correctly indicate which revisions are acceptable for terminating the inspections in Lockheed Service Bulletin 093–57–203.
- Section 2.B. of Revisions 1 and 2 of the Collector Service Bulletin (page 9) states, ''Aircraft effectivity, inspection thresholds, and repeat inspection intervals are shown for convenience, and in the event of conflicts, the individual service bulletin shall take precedence.''

Increase Compliance Threshold

One commenter requests an increase in the compliance threshold for the modification of the rear spar on Model L–1011–385–3 series airplanes specified in Lockheed Service Bulletin 093–57–215, dated April 11, 1996, as listed in Table II of the Collector Service Bulletin. The commenter states that the proposed compliance threshold would preclude accomplishment of the rear spar modification during a regularly scheduled maintenance visit, thus increasing the cost of the modification for operators. The commenter requests that the compliance time be increased to coincide with the compliance threshold for a similar modification on Model L–1011–385–1 series airplanes. The commenter points out that current proposed thresholds for inspection and modification of the rear spar on the Model L–1011–385–3 series airplanes are lower, in terms of accumulated flight cycles, and earlier, in terms of design-life goal, than currently required actions on the Model L–1011–385–1 series airplanes. The commenter separately notes that while the L–1011–385–1 series airplanes are approaching 83 percent of the 36,000 flight-cycle design-life goal, the L–1011–385–1–14, L–1011–385–1–15, and L–1011–385–3 series airplanes are at less than 50 percent of this goal. The commenter justifies its request on the basis that Model L–1011–385–3 series airplanes are younger and accumulate flight cycles at a lower rate than L–1011–385–1 series airplanes.

The FAA does not concur with the commenter's request to increase the compliance threshold. The proposed compliance time for the modification of the rear spar on Model L–1011–385–3 series airplanes is based on established service history and predicted fatigue cracking. The FAA has determined that the unique characteristics of Model L–1011–385–3 series airplanes (principally, higher fuel loading than on Model L–1011–385–1 series airplanes) make it necessary to require modification of the rear spar at a lower threshold relative to the Model L–1011–385–1 series. Because of these unique characteristics, inspection thresholds and repetitive intervals are consistently lower for actions affecting the wing rear spar on Model L–1011–385–3 series airplanes than for actions affecting the same area on Model L–1011–385–1 series airplanes. No change to the final rule is necessary in this regard.

Remove Inspection Requirement for Certain Airplanes

One commenter requests that any airplane on which a rear spar modification has been installed previously be excluded from the requirement to accomplish Lockheed Service Bulletin 093–57–194, Revision 3, dated April 11, 1994, as listed in Table II of the Collector Service Bulletin. The commenter states that it sees little benefit in listing this requirement for any airplanes subject to AD 94–05–01, and the requirement should only apply to airplanes on which the rear spar has not been modified.

The FAA does not concur that any change to this AD is necessary. For the service bulletin referenced by the commenter, Table II of the Collector Service Bulletin clearly states, ''Rear spar web replacement per Service Bulletin 093–57–184, 093–57–196, or 093–57–215 terminates these requirements.'' The FAA finds that no clarification and no change to the final rule is necessary in this regard.

Remove Terminating Modification Requirement

One commenter requests that Lockheed Service Bulletin 093–53–256, Revision 1, dated October 7, 1991, be removed from the listing of structural modifications in Table II of the Collector Service Bulletin. The commenter points out that there are certain inspection findings addressed by repetitive inspections and not by the immediate installation of a terminating modification.

The FAA does not concur with the commenter's request. The intent of this AD is that the inspections specified in Table II of the Collector Service Bulletin be accomplished according to the schedule cited in that bulletin, and that the specified terminating or corrective action be accomplished, unless otherwise noted in this AD. For the specific service bulletin referenced by the commenter, Table II states, ''Terminate repeat inspections of Part I by performing Part II inspection and disposition of inspection findings per Service Bulletin 093–53–256 R1.'' The FAA finds that these instructions are clear, and no change to the final rule is necessary in this regard.

Acknowledge Incorrect Reference to Service Bulletin in Table II

One commenter points out that Lockheed Service Bulletin 093–53–271, dated October 18, 1995, listed in Table II of the Collector Service Bulletin, is not an inspection bulletin. The commenter notes that inspections are contained in Lockheed Service Bulletin 093–53–A271, as required by AD 95–10–17, amendment 39–9234 (60 FR 26683, May 18, 1995).

The commenter makes no specific request for a change to the proposal. The FAA infers that the commenter is requesting that the FAA acknowledge that there are no inspections in accordance with Lockheed Service Bulletin 093–53–271. The FAA does not concur with the commenter's request. The listing in Table II of the Collector Service Bulletin for Lockheed Service Bulletin 093–53–271 refers to Lockheed Service Bulletin 093–53–A271, dated April 25, 1995, as the correct source of information for accomplishment of the inspections. The commenter is correct that AD 95–10–17 does require inspections in accordance with Lockheed Service Bulletin 093–53–A271, dated April 25, 1995. However, Revision 2 of the Collector Service Bulletin correctly notes that the

inspections required by that AD are one-time only. The FAA now finds that it is necessary for the inspections in that bulletin to be accomplished repetitively. For the inspections associated with Lockheed Service Bulletin 093–53–271 (meaning the inspections of Lockheed Service Bulletin 093–53–A271, dated April 25, 1995), Revision 1 of the Collector Service Bulletin specifies repetitive intervals varying from 3,500 to 6,500 flight cycles, depending on the method of inspection. The FAA has determined that the inspections and repetitive intervals specified in Revision 1 of the Collector Service Bulletin are adequate to ensure the safety of the airplane fleet. No change to the final rule is necessary in this regard.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 214 Model L–1011–385 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 107 airplanes of U.S. registry will be affected by this AD.

It will take approximately 315 work hours per airplane to accomplish the required inspections, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the inspections required by this AD on U.S. operators is estimated to be $2,022,300, or $18,900 per airplane, per inspection cycle.

It will take approximately 3,385 work hours per airplane to accomplish the required modifications, at an average labor rate of $60 per work hour. Required parts will cost approximately $242,000 per airplane. Based on these figures, the cost impact of the modifications required by this AD on U.S. operators is estimated to be $47,625,700, or $445,100 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2000–21–01 Lockheed: Amendment 39–11933. Docket 98–NM–35–AD.

Applicability: All Model L–1011–385 series airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (g) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent corrosion or fatigue cracking of certain structural elements, which could result in reduced structural integrity of the airplane, accomplish the following:

Inspections

(a) Except as provided by paragraph (b) of this AD, perform structural inspections to detect corrosion or fatigue cracking of certain structural elements of the airplane, in accordance with the applicable service bulletins listed under ''Service Bulletin Number, Revision, and Date'' in Tables I and II of Lockheed Service Bulletin 093–51–040, Revision 1, dated October 1, 1997, or Revision 2, dated October 21, 1999. Perform the initial inspections at the later of the times specified in paragraphs (a)(1) and (a)(2) of this AD. Thereafter, repeat each inspection at an interval not to exceed that specified in the applicable service bulletin listed in Revision 1 of Lockheed Service Bulletin 093–51–040.

(1) Prior to the threshold specified in the individual service bulletin listed in Table I or II of Lockheed Service Bulletin 093–51–040, Revision 1, as applicable.

(2) Within one repetitive interval after the effective date of this AD, as specified in the individual service bulletin listed in Table I or II of Lockheed Service Bulletin 093–51–040, Revision 1, as applicable; or within 14 months after the effective date of this AD for the service bulletins in Tables I and II that do not specify a repetitive interval; as applicable.

Note 2: Operators should note that paragraphs (a)(1) and (a)(2) of this AD reference only Revision 1 of Lockheed Service Bulletin 093–51–040. Certain new revisions of the individual service bulletins listed in Tables I and II of Lockheed Service Bulletin 093–51–040, Revision 2, have reduced the compliance times below those specified in the service bulletin revision levels listed in Lockheed Service Bulletin 093–51–040, Revision 1. While this AD allows accomplishment of the actions in this AD in accordance with either Lockheed Service Bulletin 093–51–040, Revision 1, or Revision 2, the applicable compliance thresholds and repetitive intervals are those listed in the individual service bulletins listed in Table I or II of Lockheed Service Bulletin 093–51–040, Revision 1.

Note 3: The inspections specified in Lockheed Service Bulletin 093–53–249, Revision 3, dated February 28, 1994, are included in the requirements of both AD 94–05–01, amendment 39–8839, and paragraph (a) of this AD. Inspections in accordance with Lockheed Service Bulletin 093–53–249, Revision 3, at the interval specified in Table I of Lockheed Service Bulletin 093–51–040,

Revision 1, as required by this AD, are acceptable for compliance with the inspections in accordance with Lockheed Service Bulletin 093–53–249, Revision 3, required by AD 94–05–01.

(b) The following service bulletins listed in Table II of Lockheed Service Bulletin 093–51–040, Revision 1, dated October 1, 1997, and Revision 2, dated October 21, 1999, are excluded from the requirements of paragraph (a) of this AD.

(1) The structural inspections specified in Lockheed Service Bulletins 093–53–268, Revision 1, dated July 2, 1996, and 093–53–272, Revision 1, dated March 17, 1997, are not required by this AD. The inspections specified in these service bulletins are required by AD 99–08–20, amendment 39–11128.

(2) The structural inspections specified in Lockheed Service Bulletin 093–53–258, Revision 1, dated April 4, 1996, are not required by this AD. Inspections equivalent to those specified in that bulletin are required by AD 95–17–03, amendment 39–9332.

(3) The structural inspections specified in Lockheed Service Bulletin 093–57–203, Revision 5, dated April 22, 1996, are not required by this AD. Inspections equivalent to those specified in that bulletin are required by AD 98–10–14, amendment 39–10526.

Corrective Action

(c) If any cracking is detected during any inspection required by paragraph (a) of this AD, prior to further flight, accomplish the actions specified in paragraph (c)(1), (c)(2), (c)(3), or (c)(4) of this AD.

(1) Repair in accordance with the applicable service bulletin referenced in Table I or II of Lockheed Service Bulletin 093–51–040, Revision 1, dated October 1, 1997, or Revision 2, dated October 21, 1999.

(2) Repair in accordance with the applicable section of the Lockheed L–1011 Structural Repair Manual.

(3) Accomplish the terminating modification in accordance with the applicable service bulletin referenced in Table I or II of Lockheed Service Bulletin 093–51–040, Revision 1, dated October 1, 1997, or Revision 2, dated October 21, 1999.

(4) Repair in accordance with a method approved by the Manager, Atlanta Aircraft Certification Office (ACO), FAA.

Terminating Action

(d) Except as provided by paragraph (e) of this AD, install the terminating modification referenced in each service bulletin listed in Table II of Lockheed Service Bulletin 093–51–040, Revision 1, dated October 1, 1997, or Revision 2, dated October 21, 1999; in accordance with the applicable service bulletin listed under ''Service Bulletin Number, Revision, and Date'' in Table II of Lockheed Service Bulletin 093–51–040, Revision 1 or Revision 2. Except as provided by paragraph (f) of this AD, install each modification at the later of the times specified in paragraphs (d)(1) and (d)(2) of this AD. Such installation constitutes terminating action for the applicable structural inspection required by paragraph (a) of this AD.

(1) Prior to the threshold specified in the applicable service bulletin listed in Table II of Lockheed Service Bulletin 093–51–040, Revision 1 or Revision 2.

(2) Within 5 years or 5,000 flight cycles after the effective date of this AD, whichever occurs first.

Note 4: Installation of the terminating modifications specified in Lockheed Service Bulletin 093–53–268, Revision 1, dated July 2, 1996, and Lockheed Service Bulletin 093–53–272, dated November 12, 1996, does not constitute terminating action for the repetitive inspection requirements of AD 99–08–20, amendment 39–11128.

(e) Overhaul of the main landing gear actuator in accordance with Lockheed Service Bulletin 093–32–238, Revision 3, dated April 11, 1996, as listed in Table II of Lockheed Service Bulletin 093–51–040, Revision 1, dated October 1, 1997, is not required by paragraph (d) of this AD.

(f) At the later of the times specified in paragraphs (f)(1) and (f)(2) of this AD: Install the terminating modification listed in Lockheed Service Bulletin 093–57–215, as referenced in Table II of Lockheed Service Bulletin 093–51–040, Revision 1, dated October 1, 1997, or Revision 2, dated October 21, 1999. Such installation constitutes terminating action for the inspections required by AD 98–10–14, amendment 39–10526.

(1) Prior to the threshold specified in Lockheed Service Bulletin 093–57–203, Revision 5, dated April 22, 1996.

(2) Within 2 years or 2,000 flight cycles after the effective date of this AD, whichever occurs first.

Alternative Methods of Compliance

(g) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Atlanta ACO. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Atlanta ACO.

Note 5: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Atlanta ACO.

Special Flight Permits

(h) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(i) Except as provided by paragraphs (c)(2) and (c)(4) of this AD, the actions shall be done in accordance with Lockheed Service Bulletin 093–51–040, Revision 1, dated October 1, 1997; or Lockheed Service Bulletin 093–51–040, Revision 2, dated October 21, 1999. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Lockheed Martin Aircraft & Logistics Center, 120 Orion Street, Greenville, South Carolina 29605. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; at the FAA, Atlanta Aircraft Certification Office, One Crown Center, 1895 Phoenix Boulevard, suite 450, Atlanta, Georgia; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(j) This amendment becomes effective on November 24, 2000.

Issued in Renton, Washington, on October 11, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–26590 Filed 10–19–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–123–AD; Amendment 39–11937; AD 2000–21–05]

RIN 2120–AA64

Airworthiness Directives; British Aerospace BAe Model ATP Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to all British Aerospace BAe Model ATP airplanes. This action requires repetitive inspections to detect damage of the torque link apex joint of the left-and right-hand main landing gear (MLG); and replacement of nuts, pins, and bolts with new parts, if necessary. This action is necessary to prevent separation of the top and bottom torque links, and consequent loss of directional control of the MLG. This action is intended to address the identified unsafe condition.

DATES: Effective November 6, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 6, 2000.

Comments for inclusion in the Rules Docket must be received on or before November 20, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 2000–NM–123–AD, 1601 Lind Avenue, SW.,

Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-an-iarcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 2000–NM–123–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in this AD may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, notified the FAA that an unsafe condition may exist on all British Aerospace BAe Model ATP airplanes. The CAA advises that it received reports of failures of the torque links of the main landing gear (MLG). The failures have occurred at the bolt assembly (apex joint) that attaches the top link to the bottom link. The failures are caused by wear in the threads of the pin and nut of the bolt assembly. This wear is caused by lateral oscillatory loading of the joint coupled with its normal movement as the MLG oleo compresses and extends. Excessive wear in the threads can result in loss of the nut and separation of the joint when the attachment pin migrates from its bushes in the torque links. Separation of the top and bottom torque links could result in loss of directional control of the MLG.

Explanation of Relevant Service Information

British Aerospace has issued Service Bulletin ATP–32–99, dated February 21, 2000. The service bulletin references Messier-Dowty Service Bulletin 200–32–263, including Appendix A, dated February 1, 2000, as an additional source of service information for accomplishment of the recommended actions. The Messier-Dowty service bulletin describes procedures for repetitive inspections to detect damage of the torque link apex joint of the left- and right-hand MLG; and replacement of nuts, pins, and bolts with new parts, if necessary.

The CAA classified the British Aerospace service bulletin as mandatory and issued British airworthiness directive 008–02–2000 in order to assure the continued airworthiness of these airplanes in the United Kingdom.

FAA's Conclusions

This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.19) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. The FAA has examined the findings of the CAA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Explanation of Requirements of the Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, this AD is being issued to prevent separation of the top and bottom torque links, and consequent loss of directional control of the MLG. This AD requires accomplishment of the actions specified in the service bulletins described previously.

Cost Impact

None of the BAe Model ATP airplanes affected by this action are on the U.S. Register. All airplanes included in the applicability of this rule currently are operated by non-U.S. operators under foreign registry; therefore, they are not directly affected by this AD action. However, the FAA considers that this rule is necessary to ensure that the unsafe condition is addressed in the event that any of these subject airplanes are imported and placed on the U.S. Register in the future.

Should an affected airplane be imported and placed on the U.S. Register in the future, it would require approximately 2 work hours to accomplish the required actions, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of this AD would be $120 per airplane.

Determination of Rule's Effective Date

Since this AD action does not affect any airplane that is currently on the U.S. register, it has no adverse economic impact and imposes no additional burden on any person. Therefore, prior notice and public procedures hereon are unnecessary and the amendment may be made effective in less than 30 days after publication in the **Federal Register.**

Comments Invited

Although this action is in the form of a final rule and was not preceded by notice and opportunity for public comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified under the caption **ADDRESSES.** All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the AD is being requested.
- Include justification (*e.g.,* reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report that summarizes each FAA-public contact concerned with the substance of this AD will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 2000–NM–123–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2000–21–05 British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited]: Amendment 39–11937. Docket 2000–NM–123–AD.

Applicability: All BAe Model ATP airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent separation of the top and bottom torque links, and consequent loss of directional control of the main landing gear (MLG), accomplish the following:

Inspection

(a) Within 800 landings or 4 months after the effective date of this AD, whichever occurs first: Perform an inspection to detect damage of the torque link apex joint of the left- and right-hand MLG, in accordance with British Aerospace Service Bulletin ATP–32–99, dated February 21, 2000, and Messier-Dowty Service Bulletin 200–32–263, including Appendix A, dated February 1, 2000. If any damage exceeds the limit specified in the Messier-Dowty service bulletin, prior to further flight, replace the nut, bolt, and pin with new parts, as applicable, in accordance with that service bulletin. Repeat the inspection thereafter at intervals not to exceed 1,000 landings.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with British Aerospace Service

Bulletin ATP–32–99, dated February 21, 2000, and Messier-Dowty Service Bulletin 200–32–263, including Appendix A, dated February 1, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in British airworthiness directive 008–02–2000.

Effective Date

(e) This amendment becomes effective on November 6, 2000.

Issued in Renton, Washington, on October 12, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–26710 Filed 10–19–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–379–AD; Amendment 39–11934; AD 2000–21–02]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A330 and A340 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A330 and A340 series airplanes, that requires revising the Airplane Flight Manual to include new flight operational procedures for the fuel system; repetitive inspections of the trim transfer fuel line in the vicinity of the aft pressure bulkhead located between frame (FR) 77 and FR86 to detect any discrepancy; and corrective actions, if necessary. This amendment also requires modification of the air release valve in the fuel trim tank transfer system, which constitutes terminating action for the requirements of this AD. This amendment is prompted by issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by this AD are intended to prevent damage to the fuel trim transfer system, which could cause rupture of the trim transfer fuel line due to pressure build-up, and result in fuel leakage from that fuel line. This action is intended to address the identified unsafe condition.

DATES: Effective November 24, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 24, 2000.

ADDRESSES: The service information referenced in this AD may be obtained

from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A330 and A340 series airplanes was published in the **Federal Register** on June 28, 2000 (65 FR 39825). That action proposed to require revising the Airplane Flight Manual (AFM) to include new flight operational procedures for the fuel system; repetitive inspections of the trim transfer fuel line in the vicinity of the aft pressure bulkhead located between frame (FR) 77 and FR86 to detect any discrepancy; and corrective actions, if necessary. That action also proposed to require modification of the air release valve in the fuel trim tank transfer system, which would constitute terminating action for the requirements of this AD.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 3 Airbus Model A330 series airplanes of U.S. Registry will be affected by this AD.

It will require approximately 1 work hour to accomplish the revision to the AFM, at an average labor rate of $60 per work hour. Based on this figure, the cost impact of the AFM revision required by this AD action will be $180, or $60 per airplane.

It will require approximately 2 work hours to accomplish each inspection, at an average labor rate of $60 per work hour. Based on this figure, the cost impact of each inspection required by this AD action will be $360, or $120 per airplane.

It will require approximately 3 work hours to accomplish the installation of the additional pressure relief valves in the fuel trim tank, at an average labor rate of $60 per work hour. Based on this figure, the cost impact of the installation required by this AD action will be $540, or $180 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2000–21–02 Airbus Industrie: Amendment 39–11934. Docket 99–NM–379–AD.

Applicability: Model A330 and A340 series airplanes, certificated in any category, except those airplanes on which Airbus Modification 47293 has been installed in production, or on which the modification has been accomplished in accordance with Airbus Service Bulletin A330–28–3063 or A340–28–4079, both dated October 6, 1999; as applicable.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (d) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent damage to the fuel trim transfer system, which could cause rupture of the trim transfer fuel line due to pressure build-up, and result in fuel leakage from that line; accomplish the following:

Airplane Flight Manual Revision

(a) Within 10 days after the effective date of this AD, revise the Limitations and Normal Procedures section of the FAA-approved Airplane Flight Manual (AFM) to include the information specified in Airbus Temporary Revision (TR) 4.03.00/09, TR 4.03.00/10, and TR 4.03.00/12 (for Model A330 series airplanes); or TR 4.03.00/20 (for Model A340 series airplanes); all dated July 23, 1999; as applicable.

Note 2: The AFM revision required by paragraph (a) of this AD may be accomplished by inserting a copy of the applicable TR into the applicable section of the AFM. When the temporary revisions required by paragraph (a) of this AD have been incorporated into the general revisions of the AFM, the general revisions may be inserted into the AFM, provided that the information contained in the general revisions is identical to that specified in the temporary revisions.

Inspections

(b) Within 1,000 flight hours after the effective date of this AD, perform a detailed

visual inspection of the trim transfer fuel line in the vicinity of the aft pressure bulkhead located between frame (FR) 77 and FR86 to detect any discrepancy (including deformation, dents, kinks, and broken rivets of the fuel pipe and pipe clamp, support bracket, and shroud) in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–28–3060, Revision 02 (for Model A330 series airplanes), or A340–28–4077, Revision 02 (for Model A340 series airplanes), both dated May 27, 1999, as applicable. Repeat the inspection thereafter at intervals not to exceed 1,000 flight hours until the modification required by paragraph (c) of this AD has been accomplished.

Note 3: Inspections accomplished prior to the effective date of this AD in accordance with Operator Information Telex/Flight Operations Telex (OIT/FOT) 999.0142/98, dated December 23, 1998, are considered acceptable for compliance with the INITIAL detailed visual inspection required by paragraph (b) of this AD.

Corrective Actions

(1) If any discrepancy is detected during any inspection required by paragraph (b) of this AD, prior to further flight, accomplish applicable corrective actions [including replacement of any damaged components and deactivation of the trim fuel pipe isolation valve and auxiliary power unit (APU) isolation valve] in accordance with the Accomplishment Instructions and Figure 2 of the applicable service bulletin.

Replacement of Pipe Shroud and Pipe

(2) If the isolation valves of the trim fuel pipe and APU are deactivated in accordance with the FAA-approved Master Minimum Equipment List during accomplishment of the corrective actions required by paragraph (b)(1) of this AD: Within 10 days after deactivation, replace the pipe shroud and pipe, as applicable, and reactivate the valves, in accordance with the applicable service bulletin.

Terminating Action

(c) Within 18 months after the effective date of this AD, modify the air release valve (ARV) in the trim tank system (including cleaning and lubricating certain components, installing two additional pressure relief valves, and installing the adapter and ARV) in accordance with the Accomplishment Instructions of Airbus Service Bulletin A330–28–3063 or A340–28–4079, both dated October 6, 1999, as applicable. Accomplishment of such modification constitutes terminating action for the AFM revisions and the repetitive inspections required by this AD.

Alternative Methods of Compliance

(d) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 4: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(e) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(f) The actions shall be done in accordance with Airbus Temporary Revision 4.03.00/09, dated July 23, 1999; Airbus Temporary Revision 4.03.00/10, dated July 23, 1999; Airbus Temporary Revision 4.03.00/12, dated July 23, 1999; Airbus Temporary Revision 4.03.00/20, dated July 23, 1999; Airbus Service Bulletin A330–28–3060, Revision 02, including Appendix 01, dated May 27, 1999; Airbus Service Bulletin A340–28–4077, Revision 02, including Appendix 01, dated May 27, 1999; Airbus Service Bulletin A330–28–3063, dated October 6, 1999; and Airbus Service Bulletin A340–28–4079, dated October 6, 1999; as applicable. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 5: The subject of this AD is addressed in French airworthiness directives 1999–046–091(B), Revision 4 (for Model A330 series airplanes), and 1999–045–111(B), Revision 4 (for Model A340 series airplanes), both dated December 15, 1999.

Effective Date

(g) This amendment becomes effective on November 24, 2000.

Issued in Renton, Washington, on October 12, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–26709 Filed 10–19–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–10–AD; Amendment 39–11935; AD 2000–21–03]

RIN 2120–AA64

Airworthiness Directives; Israel Aircraft Industries, Ltd., Model Astra SPX and 1125 Westwind Astra Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Israel Aircraft Industries, Ltd., Model Astra SPX and 1125 Westwind Astra series airplanes, that requires a one-time inspection of the position of the aileron autopilot servo and attachment arm; follow-on actions; and corrective actions, if necessary; and installation of a stopper angle on the servo bracket. This action is necessary to prevent the control link of the aileron autopilot servo from being driven overcenter, which could result in roll oscillations when the autopilot is engaged. This action is intended to address the identified unsafe condition.

DATES: Effective November 24, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 24, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Galaxy Aerospace Corporation, One Galaxy Way, Fort Worth Alliance Airport, Fort Worth, Texas 76177. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Israel Aircraft Industries, Ltd., Model Astra SPX and 1125 Westwind Astra series airplanes was published in the **Federal**

Register on June 30, 2000 (65 FR 40551). That action proposed to require require a one-time inspection of the position of the aileron autopilot servo and attachment arm; follow-on actions; and corrective actions, if necessary; and installation of a stopper angle on the servo bracket.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were submitted in response to the proposal or the FAA's determination of the cost to the public.

Conclusion

The FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

The FAA estimates that 38 airplanes of U.S. registry will be affected by this AD, that it will take approximately 2 work hours per airplane to accomplish the required actions, and that the average labor rate is $60 per work hour. Required parts will cost approximately $100 per airplane. Based on these figures, the cost impact of the required AD on U.S. operators is estimated to be $8,360, or $220 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2000–21–03 Israel Aircraft Industries, Ltd.: Amendment 39–11935. Docket 2000–NM–10–AD.

Applicability: Model Astra SPX and 1125 Westwind Astra series airplanes; certificated in any category; serial numbers 030, and 042 through 086 inclusive.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent the control link of the aileron autopilot servo from being driven overcenter, which could result in roll oscillations when the autopilot is engaged, accomplish the following:

Inspection and Corrective Actions

(a) Within 50 flight hours after the effective date of this AD, perform a one-time general visual inspection of the aileron autopilot servo and attaching linkage to determine whether the attachment arm on the servo is in the correct position, in accordance with Astra (Israel Aircraft Industries Ltd.) Alert Service Bulletin 1125–27A–157, dated September 14, 1999.

(1) If the attachment arm is in the correct position, prior to further flight, install a stopper angle on the servo bracket in accordance with the alert service bulletin.

(2) If the attachment arm is in the incorrect position, prior to further flight, perform a general visual inspection to detect damage of the bellcrank arm, control link, and attachment arm, in accordance with the alert service bulletin. Prior to further flight after accomplishment of all applicable corrective actions specified by this paragraph, install a stopper angle on the servo bracket in accordance with the alert service bulletin.

(i) If no damage is detected, prior to further flight, reposition the attachment arm in accordance with the alert service bulletin.

(ii) If any damage is detected and the damage is within the limits specified by the alert service bulletin, prior to further flight, repair the damaged part in accordance with the alert service bulletin.

(iii) If any damage is detected and the damage exceeds the limits specified by the alert service bulletin, prior to further flight, replace the damaged part with a new part in accordance with the alert service bulletin.

Note 2: For the purposes of this AD, a general visual inspection is defined as: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight, and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The actions shall be done in accordance with Astra (Israel Aircraft Industries Ltd.) Alert Service Bulletin 1125–27A–157, dated September 14, 1999. This incorporation by

reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Galaxy Aerospace Corporation, One Galaxy Way, Fort Worth Alliance Airport, Fort Worth, Texas 76177. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on November 24, 2000.

Issued in Renton, Washington, on October 12, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–26708 Filed 10–19–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–91–AD; Amendment 39–11936; AD 2000–21–04]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 767 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 767 series airplanes, that requires installation of sleeving on the 90-minute auxiliary power unit (APU) standby power feeder cable at body station 1351. This amendment is prompted by a report of damage to the 90-minute APU standby power feeder cable caused by shifting of unrestrained cargo containers during flight. The actions specified by this AD are intended to prevent damage to the 90-minute APU standby power feeder cable, which could result in arcing between the standby power feeder cable and the shroud of the APU fuel line, penetration of the fuel line shroud, and a consequent fire in the main deck floor above the aft cargo compartment.

DATES: Effective November 24, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 24, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dennis Kammers, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2956; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 767 series airplanes was published in the **Federal Register** on May 12, 2000 (65 FR 30553). That action proposed to require installation of sleeving on the 90-minute auxiliary power unit (APU) standby power feeder cable at body station 1351.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the single comment received.

Revise Paragraph (a) of the Proposal

The commenter notes that paragraph (a) of the proposal states, ''Within 6 months after the effective date of this AD, install sleeving on the 90-minute APU standby power feeder cable at body station 1351 on the left side of the airplane * * *'' The commenter also reiterates a portion of the Discussion section that reads, ''The cargo containers damaged the 90-minute APU standby power feeder cable and the cabin floor support beam at body station 1351, on the right side of the airplane. Investigation revealed evidence of arcing between the cable and the beam.'' The commenter inquires as to why there is no proposed requirement for sleeving of the cable on the right-hand side of the airplane. The commenter further states that even though the fuel line is not on the right-hand side of the airplane, any cable arcing may still become a potential hazard and should be addressed. Therefore, the commenter requests that paragraph (a) of the proposal be revised to read, ''* * * on the left and right sides of the airplane * * *''

The FAA does not concur with the commenter's request. Accomplishment of the corrective action of the APU standby power feeder cable, as required by paragraph (a) of the final rule, is to reduce the fire hazard associated with an unrestrained cargo container impacting the cable. Damaging the cable in the region specified could cause arcing against the APU fuel line shroud, which could penetrate the fuel line and result in a cabin fire. The arcing damage between the APU standby power feeder cable and the cargo floor beam, which was reported in the initial investigation, although serious in nature, was not deemed an unsafe condition or a threat to continued safe operation of the airplane. Further investigation determined that no structural or fire concerns resulted from the incident. Therefore, sleeving of the standby power feeder cable is necessary only in areas where damage to the cable may cause arcing to the APU fuel line. No change to paragraph (a) of the final rule is necessary in this regard.

Conclusion

After careful review of the available data, including the comment noted above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed.

Cost Impact

There are approximately 151 airplanes of the affected design in the worldwide fleet. The FAA estimates that 14 airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required action, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $840, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and

responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2000–21–04 Boeing: Amendment 39–11936. Docket 2000–NM–91–AD.

Applicability: Model 767 series airplanes; as listed in Boeing Alert Service Bulletin 767–24A0126, dated February 24, 2000; certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent damage to the 90-minute auxiliary power unit (APU) standby power feeder cable, which could result in arcing between the standby power feeder cable and the shroud of the APU fuel line, penetration of the fuel line shroud, and a consequent fire in the main deck floor above the aft cargo compartment, accomplish the following:

Installation of Sleeving

(a) Within 6 months after the effective date of this AD, install sleeving on the 90-minute APU standby power feeder cable at body station 1351 on the left side of the airplane, in accordance with Boeing Alert Service Bulletin 767–24A0126, dated February 24, 2000.

Alternative Methods of Compliance

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(c) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(d) The installation shall be done in accordance with Boeing Alert Service Bulletin 767–24A0126, dated February 24, 2000. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(e) This amendment becomes effective on November 24, 2000.

Issued in Renton, Washington, on October 12, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–26707 Filed 10–19–00; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 2000–NM–98–AD; Amendment 39–11938; AD 2000–21–06]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 747 Series Airplanes Equipped with Pratt & Whitney (PW) JT9D–7Q and JT9D–7Q3 Turbofan Engines

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Boeing Model 747 series airplanes, that requires a detailed visual inspection to detect evidence of wear or contact between the precooler support fitting and link assembly; and rework and reidentification of the fitting. This amendment is prompted by a report of rupturing of a diffuser case on a PW JT9D–7Q engine due to cracking in the outer pressure wall in the rear skirt area. The actions specified by this AD are intended to prevent contact between the precooler support link and the precooler support fitting, which could contribute to an uncontained failure of the diffuser case and damage to the airplane.

DATES: Effective November 24, 2000.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of November 24, 2000.

ADDRESSES: The service information referenced in this AD may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Dionne Krebs, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2250; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Boeing Model 747 series airplanes was published in the **Federal Register** on

May 3, 2000 (65 FR 25696). That action proposed to require a detailed visual inspection to detect evidence of wear or contact between the precooler support fitting and link assembly; and rework and reidentification of the fitting.

Comments

Interested persons have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to the comments received.

Request for Correction of Part Number

One commenter states that the reidentification part number (P/N) 65B09024–601, as specified in paragraphs (a)(1), (a)(2), and (b) of the proposal, is incorrect, and should be revised to P/N 65B90924–601. The FAA concurs with the commenter's statement; there was an error in the part number specified in the proposed rule and it has been corrected in the applicable paragraphs of the final rule.

Action Taken to Address Root Cause

One commenter repeats a sentence in the Discussion section of the proposal which states, ''The diffuser case fracture was due to a crack that most likely developed in a toolmark that was left by a blending operation adjacent to the dog-bone-shaped embossment at the 11 o'clock circumferential location of the outer pressure wall of the case in the area of the rear skirt.'' The commenter requests information on the action that has been taken to address the toolmark and blending issue that is the apparent root cause of the unsafe condition.

The FAA previously issued AD 99–04–05, amendment 39–11029 (64 FR 6784, February 11, 1999), which addresses the toolmark and blending issue. That AD requires a fluorescent penetrant inspection (FPI) of the rear skirt of the diffuser case for cracks, and, if necessary, blending down to a minimum wall thickness to remove cracks and subsequent FPI to determine if cracks have been removed, polishing, and shotpeening. If the cracks are shown by subsequent FPI not to have been removed, that AD requires removing the diffuser case from service and replacing it with a serviceable part. No change to this final rule is necessary in this regard.

Request to Reference New Service Information

One commenter requests the proposal be revised to reference Boeing Service Bulletin 747–36–2135 for accomplishment of the bracket modification. The commenter states that Boeing Service Letter 747–SL–36–089, dated August 10, 1998 (the service information referenced in the proposal for accomplishment of the bracket modification), will be revised to refer to the new service bulletin for the modification instructions. The commenter disagrees with the wording in the proposal stating that the service letter will be revised to reidentify the P/N on the bracket, and plans to revise the service letter to reference the new service bulletin, which will contain modification instructions for the bracket.

The FAA does not concur with the commenter's request. The referenced service bulletin has not been submitted for review and approval by the FAA; therefore, the final rule cannot be revised to cite as-yet unapproved service information. However, under the provisions of paragraph (c) of the final rule, the FAA may approve requests for an alternative method of compliance in accordance with Boeing Service Bulletin 747–36–2135 after it has been approved by the FAA and submitted to substantiate that such an adjustment would provide an acceptable level of safety that addresses the identified unsafe condition. Additionally, the proposal does not state that the service letter will be revised to reidentify the P/N on the bracket. No change to the final rule is necessary in this regard.

Request to Extend Compliance Time

One commenter requests the proposed compliance time for accomplishment of the detailed visual inspection be extended to ''Within 8,000 flight hours after the effective date of this AD,'' with no calendar grace period. The commenter states that, since removal of the precooler is necessary to accomplish the rework, the task is best accomplished during a scheduled 'L,' 'H,' or 'M' maintenance check of the airplane. The commenter also states that an extension of the compliance time will ensure that it can accomplish the inspection on all of its affected airplanes during one of the scheduled checks described above.

The FAA does not concur with the commenter's request. In developing an appropriate compliance time for this action, the FAA considered not only the degree of urgency associated with addressing the subject unsafe condition, but the manufacturer's recommendation as to an appropriate compliance time, and the practical aspect of accomplishing the required inspection and rework within an interval of time that parallels the normal scheduled maintenance for the majority of affected operators. The FAA has determined that 6,000 hours, time-in-service or 18 months represents an appropriate compliance time allowable for the inspection and rework to be accomplished during scheduled maintenance intervals. However, under the provisions of paragraph (c) of the final rule, the FAA may approve requests for adjustments to the compliance time if data are submitted to substantiate that such an adjustment would provide an acceptable level of safety.

Conclusion

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes previously described. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

Cost Impact

There are approximately 79 airplanes of the affected design in the worldwide fleet. The FAA estimates that 27 airplanes of U.S. registry will be affected by this AD.

It will take approximately 2 work hours per airplane to accomplish the required inspection, at an average labor rate of $60 per work hour. Based on these figures, the cost impact of the required inspection on U.S. operators is estimated to be $3,240, or $120 per airplane.

It will take approximately 16 work hours per airplane to accomplish the required rework, at an average labor rate of $60 per work hour. No parts are required to accomplish the rework. Based on these figures, the cost impact of the required rework on U.S. operators is estimated to be $25,920, or $960 per airplane.

The cost impact figures discussed above are based on assumptions that no operator has yet accomplished any of the requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted. The cost impact figures discussed in AD rulemaking actions represent only the time necessary to perform the specific actions actually required by the AD. These figures typically do not include incidental costs, such as the time required to gain access and close up, planning time, or time necessitated by other administrative actions.

Regulatory Impact

The regulations adopted herein will not have a substantial direct effect on the States, on the relationship between

the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this final rule does not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

2000–21–06 Boeing: Amendment 39–11938. Docket 2000–NM–98–AD.

Applicability: Model 747 series airplanes, certificated in any category; equipped with Pratt & Whitney JT9D–7Q and JT9D–7Q3 turbofan engines.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent contact between the precooler support link and the precooler support fitting, which could contribute to an uncontained failure of the diffuser case and damage to the airplane, accomplish the following:

Detailed Visual Inspection

(a) For any precooler support fitting having P/N 65B90924–1 or P/N 65B90924–600 that has not been reworked to the dimensions specified in Boeing Service Letter 747–SL–36–089, dated August 10, 1998: Within 6,000 hours time-in-service after the effective date of this AD, or within 18 months after the effective date of this AD, whichever occurs first, perform a detailed visual inspection to detect evidence of contact wear or contact between the precooler support fitting and link assembly, P/N 69B93162–1 or 69B93162–3, in accordance with the service letter.

Rework and Reidentification

(1) If no evidence of contact wear or contact between the precooler support fitting and link assembly is found: At the next engine removal, rework the precooler support fitting to the dimensions specified in the service letter, in accordance with the service letter; and permanently and legibly reidentify the support fitting as P/N 65B90924–601.

(2) If any evidence of contact wear or contact between the precooler support fitting and link assembly is found: Prior to further flight, rework the precooler support fitting to the dimensions specified in the service letter, in accordance with the service letter; and permanently and legibly reidentify the support fitting as P/N 65B90924–601.

Note 2: For the purposes of this AD, a detailed visual inspection is defined as: ''An intensive visual examination of a specific structural area, system, installation, or assembly to detect damage, failure, or irregularity. Available lighting is normally supplemented with a direct source of good lighting at intensity deemed appropriate by the inspector. Inspection aids such as mirror, magnifying lenses, etc., may be used. Surface cleaning and elaborate access procedures may be required.''

Reidentification

(b) For any precooler support fitting having P/N 65B90924–1 or P/N 65B90924–600 that has been reworked to the dimensions specified in Boeing Service Letter 747–SL–36–089, dated August 10, 1998, but has not been permanently and legibly reidentified: Within 6,000 hours time-in-service or 18 months after the effective date of this AD, whichever occurs first, permanently and legibly reidentify the reworked fitting as P/N 65B90924–601.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Seattle ACO.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Incorporation by Reference

(e) Except as provided by paragraphs (a)(1), (a)(2), and (b) of this AD, the actions shall be done in accordance with Boeing Service Letter 747–SL–36–089, including attachment, dated August 10, 1998. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Effective Date

(f) This amendment becomes effective on November 24, 2000.

Issued in Renton, Washington, on October 13, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–26878 Filed 10–19–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30208; Amdt. No. 2016]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of

new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference—approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAP's, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAP's. The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 14 CFR 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAP's contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with a Global Positioning System (GPS) and or flight Management System (FMS) equipment. In consideration of the above, the applicable SIAP's will be altered to include ''or GPS or FMS'' in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS or FMS procedure is developed, the procedure title will be altered to remove ''or GPS or FMS'' from these non-localizer, non-precision instrument approach procedure titles.)

The FAA has determined through extensive analysis that current SIAP's intended for use by Area Navigation (RNAV) equipped aircraft can be flown by aircraft utilizing various other types of navigational equipment. In consideration of the above, those SIAP's currently designated as ''RNAV'' will be redesignated as ''VOR/DME RNAV'' without otherwise reviewing or modifying the SIAP's.

Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on October 13, 2000.

L. Nicholas Lacy,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113–40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§§ 97.23, 97.27, 97.33, 97.35 [Amended]

2. Amend 97.23, 97.27, 97.33 and 97.35, as appropriate, by adding, revising, or removing the following SIAP's effective at 0901 UTC on the dates specified:

** * * Effective November 30, 2000*

Gulkana, AK, Gulkana, VOR or GPS RWY 14, Amdt 6, CANCELLED
Gulkana, AK, Gulkana, VOR RWY 14, Amdt 6
Marysville, CA, Marysville/Yuba County, NDB or GPS RWY 14, Amdt 3C, CANCELLED
Marysville, CA, Marysville/Yuba County, NDB RWY 14, Amdt 3C
Jacksonville, FL, Jacksonville Intl, NDB or GPS RWY 7, Amdt 9C, CANCELLED
Jacksonville, FL, Jacksonville Intl, NDB RWY 7, Amdt 9C

Vero Beach, FL, Vero Beach Muni, VOR or GPS RWY 11R, Amdt 12B, CANCELLED
Vero Beach, FL, Vero Beach Muni, VOR RWY 11R, Amdt 12B
Vero Beach, FL, Vero Beach Muni, VOR/DME or GPS RWY 29L, Amdt 2C, CANCELLED
Vero Beach, FL, Vero Beach Muni, VOR/DME RWY 29L, Amdt 2C
Burlington, IA, Burlington Regional, NDB or GPS RWY 36, Amdt 8C, CANCELLED
Burlington, IA, Burlington Regional, NDB RWY 36, Amdt 8C
Estherville, IA, Estherville Muni, VOR or GPS RWY 16, Amdt 4B, CANCELLED
Estherville, IA, Estherville Muni, VOR RYW 16, Amdt 4B
Estherville, IA, Estherville Muni, NDB or GPS RWY 34, Orig-B, CANCELLED
Estherville, IA, Estherville Muni, NDB RWY 34, Orig-B
Lafayette, IN, Purdue University, VOR/DME RNAV or GPS RWY 28, Amdt 5, CANCELLED
Lafayette, IN, Purdue University, VOR/DME RNAV RWY 28, Amdt 5
Lafayette, IN, Purdue University, NDB or GPS RWY 10, Amdt 12, CANCELLED
Lafayette, IN, Purdue University, NDB RWY 10, Amdt 12
Winamac, IN, Arens Field, NDB or GPS RWY 9, Amdt 1, CANCELLED
Winamac, IN, Arens Field, NDB RWY 9, Amdt 1
Alexandria, LA, Alexandria Intl, VOR or GPS RWY 14, Amdt 1, CANCELLED
Alexandria, LA, Alexandria Intl, VOR RWY 14, Amdt 1
Hyannis, MA, Barnstable Muni-Boardman/Polando Field, NDB or GPS RWY 24, Amdt 9C, CANCELLED
Hyannis, MA, Barnstable Muni-Boardman/Polando Field, NDB RWY 24, Amdt 9C
Grand Island, NE, Central Nebraska Regional, VOR/DME or GPS RWY 31, Amdt 6, CANCELLED
Grand Island, NE, Central Nebraska Regional, VOR/DME RWY 31, Amdt 6
Grand Island, NE, Central Nebraska Regional, VOR/DME or GPS RWY 35, Amdt 14, CANCELLED
Grand Island, NE, Central Nebraska Regional, VOR/DME RWY 35, Amdt 14
Grand Island, NE, Central Nebraska Regional, VOR or GPS RWY 13, Amdt 18, CANCELLED
Grand Island, NE, Central Nebraska Regional, VOR RWY 13, Amdt 18
Grand Island, NE, Central Nebraska Regional, VOR or GPS RWY 17, Amdt 23, CANCELLED
Grand Island, NE, Central Nebraska Regional, VOR RWY 17, Amdt 23
McCook, NE, McCook Muni, VOR or GPS RWY 21, Amdt 4C, CANCELLED
McCook, NE, McCook Muni, VOR RWY 21, Amdt 4C
Norfolk, NE, Karl Stefan Memorial, VOR or GPS RWY 13, Amdt 6a, CANCELLED
Norfolk, NE, Karl Stefan Memorial, VOR RWY 13, Amdt 6a
Norfolk, NE, Karl Stefan Memorial, VOR or GPS RWY 19, Amdt 7, CANCELLED
Norfolk, NE, Karl Stefan Memorial, VOR RWY 19, Amdt 7
Norfolk, NE, Karl Stefan Memorial, VOR or GPS RWY 31, Amdt 6A, CANCELLED
Norfolk, NE, Karl Stefan Memorial, VOR RWY 31, Amdt 6A
O'Neill, NE, The O'Neill Muni-John L. Baker Field, VOR or GPS RWY 13, Amdt 5A, CANCELLED
O'Neill, NE, The O'Neill Muni-John L. Baker Field, VOR RWY 13, Amdt 5A
O'Neill, NE, The O'Neill Muni-John L. Baker Field, VOR or GPS RWY 31, Amdt 1A, CANCELLED
O'Neill, NE, The O'Neill Muni-John L. Baker Field, VOR RWY 31, Amdt 1A
Montgomery, NY, Orange County, VOR or GPS RWY 8, Amdt 9, CANCELLED
Montgomery, NY, Orange County, VOR RWY 8, Amdt 9
Pottsville, PA, Schuylkill County/Joe Zerbey, VOR/DME RNAV or GPS RWY 29, Amdt 3, CANCELLED
Pottsville, PA, Schuylkill County/Joe Zerbey, VOR/DME RNAV RWY 29, Amdt 3
Anderson, SC, Anderson Regional, VOR or GPS RWY 5, Amdt 9A, CANCELLED
Anderson, SC, Anderson Regional, VOR RWY 5, Amdt 9A
Rapid City, SD, Rapid City Regional, VOR or TACAN or GPS RWY 32, Amdt 24A, CANCELLED
Rapid City, SD, Rapid City Regional, VOR or TACAN RWY 32, Amdt 24A
Smithville, TN, Smithville Muni, NDB or GPS RWY 24, Amdt 2, CANCELLED
Smithville, TN, Smithville Muni, NDB RWY 24, Amdt 2
Bonham, TX, Jones Field, NDB or GPS RWY 17, Amdt 3, CANCELLED
Bonham, TX, Jones Field, NDB RWY 17, Amdt 3
Seminole, TX, Gaines County, NDB or GPS RWY 35, Orig, CANCELLED
Seminole, TX, Gaines County, NDB RWY 35, Orig
Wendover, UT, Wendover, VOR/DME or TACAN or GPS–A, Amdt 2, CANCELLED
Wendover, UT, Wendover, VOR/DME or TACAN, Amdt 2
Norfolk, VA, Norfolk Intl, NDB/DME or GPS RWY 23, Orig–B, CANCELLED
Norfolk, VA, Norfolk Intl, NDB/DME RWY 23, Orig–B

[FR Doc. 00–26952 Filed 10–19–00; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30207; Amdt. No 2015]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation's Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAMs for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been canceled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on October 31, 2000.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
09/05/00	IN	Auburn	De Kalb County	0/0823	GPS Rwy 27, Orig...
09/05/00	OH	Youngstown	Youngstown Elser Metro	0/0836	GPS Rwy 10, Orig–A...
09/27/00	IN	Terre Haute	Terre Haute Intl—Hulman Field	0/1969	GPS Rwy 5, Orig...
09/27/00	IN	Terre Haute	Terre Haute Intl—Hulman Field	0/1970	VOR/DME Rwy 5, Amdt 17A...
09/27/00	MI	Greenville	Greenville Muni	0/1977	GPS Rwy 27, Orig...
09/28/00	IN	Kendallville	Kendallville	0/2013	GPS Rwy 27, Orig...
09/28/00	TX	Dalhart	Dalhart Muni	0/2001	VOR Rwy 17, Amdt 12A...
09/28/00	TX	Dalhart	Dalhart Muni	0/2002	GPS Rwy 17, Orig...
09/29/00	FL	Fernandina Beach	Fernandina Beach	0/2089	GPS Rwy 13, Orig...
09/29/00	LA	Lafayette	Lafayette Regional	0/2025	ILS Rwy 22L, Amdt 4A...

FDC date	State	City	Airport	FDC No.	SIAP
09/29/00	LA	New Roads	False River Airpark	0/1993	GPS Rwy 18, Orig...
09/29/00	LA	Sulphur	Southland Field	0/1992	GPS Rwy 15, Amdt 1...
09/29/00	TX	Bay City	Bay City Muni	0/2004	GPS Rwy 13, Orig...
09/29/00	TX	Dallas	Dallas—Love Field	0/2084	ILS Rwy 13R, Amdt 4...
09/29/00	TX	Galveston	Scholes Intl at Galveston	0/2035	VOR Rwy 13, Amdt 2...
09/29/00	TX	Houston	Houston—Southwest	0/2081	NDB Rwy 9, Amdt 4B...
09/29/00	WI	Chetek	Chetek Muni—Southworth	0/2071	VOR/DME–A, Orig...
10/02/00	TX	Houston	Houston—Southwest	0/2128	LOC/DME Rwy 9, Amdt 2B...
10/02/00	TX	Lufkin	Angelina County	0/2130	VOR Rwy 33, Amdt 13...
10/02/00	VA	Norfolk	Norfolk Intl	0/2116	ILS Rwy 5 Amdt 24C...
10/03/00	TX	Waco	Waco Regional	0/2171	NDB Rwy 19, Amdt 18...
10/04/00	AR	Dumas	Billy Free Municipal	0/2215	VOR/DME or GPS Rwy 36, Amdt 2B...
10/04/00	AR	Jonesboro	Jonesboro Muni	0/2216	VOR or GPS Rwy 23, Amdt 9...
10/04/00	IN	French Lick	French Lick Muni	0/2206	NDB Rwy 8, Orig...
10/04/00	IN	French Lick	French Lick Muni	0/2208	GPS Rwy 26, Orig...
10/04/00	IN	French Lick	French Lick Muni	0/2209	GPS Rwy 8, Orig...
10/05/00	AK	St. George	St George	0/2293	LOC/DME–A, Orig...
10/05/00	AR	Batesville	Batesville Regional	0/2396	NDB or GPS Rwy 7, Amdt 5A...
10/05/00	AR	Springdale	Springdale Muni	0/2361	VOR or GPS Rwy 18, Amdt 14B...
10/05/00	AZ	Phoenix	Phoenix Sky Harbor Intl	0/2322	ILS Rwy 7R Orig...
10/05/00	AZ	Phoenix	Phoenix Sky Harbor Intl	0/2324	ILS Rwy 8R Amdt 10...
10/05/00	AZ	Phoenix	Phoenix Sky Harbor Intl	0/2325	ILS Rwy 26R Amdt 1...
10/05/00	AZ	Phoenix	Phoenix Sky Harbor Intl	0/2326	LOC BC Rwy 26L Amdt 9A...
10/05/00	AZ	Phoenix	Phoenix Sky Harbor Intl	0/2328	ILS Rwy 25L Orig...
10/05/00	AZ	Phoenix	Phoenix Sky Harbor Intl	0/2344	VOR/DME Rwy 26L Amdt 1A...
10/05/00	FL	Miami	Miami Intl	0/2252	GPS Rwy 9R, Orig–B...
10/05/00	FL	Ocala	Ocala Regional/Jim Taylor Field	0/2243	RNAV Rwy 36, Orig...
10/05/00	FL	Ocala	Ocala Regional/Jim Taylor Field	0/2244	RNAV Rwy 18, Orig...
10/05/00	MD	Baltimore	Baltimore—Washington Intl	0/2273	RNAV Rwy 33L, Orig...
10/05/00	MD	Baltimore	Baltimore—Washington Intl	0/2274	RNAV Z Rwy 28 Orig...
10/05/00	MD	Baltimore	Baltimore—Washington Intl	0/2275	RNAV Y Rwy 28 Orig...
10/05/00	MD	Baltimore	Baltimore—Washington Intl	0/2276	RNAV Y Rwy 15R Orig...
10/05/00	MD	Baltimore	Baltimore—Washington Intl	0/2277	RNAV Z Rwy 15R Orig...
10/05/00	MD	Baltimore	Baltimore—Washington Intl	0/2278	ILS Rwy 33R Orig...
10/05/00	MD	College Park	College Park	0/2264	VOR/DME RNAV Rwy 15 Amdt 3...
10/05/00	MD	College Park	College Park	0/2268	RNAV Rwy 15 Orig...
10/05/00	MN	Minneapolis	Minneapolis—St.Paul Intl (Wold—Chamberlain).	0/2284	ILS Rwy 30L (CAT II) Amdt 43...
10/05/00	MN	Minneapolis	Minneapolis—St.Paul Intl (Wold—Chamberlain).	0/2286	ILS PRM Rwy 30L, Amdt 4...
10/05/00	MN	Minneapolis	Minneapolis—St.Paul Intl (Wold—Chamberlain).	0/2287	ILS Rwy 30L, Amdt 43...
10/05/00	NY	Rome	Griffis Airpark	0/2355	ILS Rwy 15 Orig...
10/05/00	PR	San Juan	Luis Munoz Marin Intl	0/2253	RNAV Rwy 10, Orig...
10/05/00	TN	Memphis	Memphis Intl	0/2298	ILS Rwy 18L, Amdt 1A...
10/05/00	VA	Norfolk	Norfolk Intl	0/2281	RNAV Rwy 23 Orig...
10/06/00	CA	Marysville	Yuba County	0/2425	NDB or GPS Rwy 14 Amdt 3C...
10/06/00	CA	Marysville	Yuba County	0/2427	VOR Rwy 14 Amdt 9C...
10/06/00	CA	Marysville	Yuba County	0/2428	ILS Rwy 14 Amdt 4C...
10/06/00	CA	Marysville	Yuba County	0/2429	VOR Rwy 32 Amdt 10C...
10/06/00	CA	Marysville	Yuba County	0/2430	GPS Rwy 14 Orig...
10/06/00	CA	Marysville	Yuba County	0/2431	GPS Rwy 32 Orig...
10/06/00	IL	Salem	Salem-Leckrone	0/2462	GPS Rwy 18 Orig...
10/06/00	IL	Salem	Salem-Leckrone	0/2463	NDB Rwy 18 Amdt 9...
10/10/00	MT	Helena	Helena Regional	0/2607	VOR/DME or GPS–B Amdt 6A...
10/10/00	MT	Helena	Helena Regional	0/2608	ILS Rwy 27 Amdt 1A...
10/10/00	TX	Jacksonville	Cherokee County	0/2600	VOR/DME or GPS Rwy 14, Amdt 3A... This replaces FDC 0/2079.
10/11/00	IN	Indianapolis	Indianapolis International	0/2652	ILS Rwy 5L, Amdt 1A...
10/11/00	LA	Alexandria	Alexandria Esler Regional	0/2622	ILS Rwy 26, Amdt 13A...
10/11/00	OH	Cincinnati	Cincinnati Muni Airport—Lunken Field	0/2651	NDB or GPS Rwy 25, Amdt 9...
10/11/00	OH	Willoughby	Willoughby Lost Nation Muni	0/2647	NDB or GPS Rwy 9, Amdt 9A...
10/11/00	OH	Willoughby	Willoughby Lost Nation Muni	0/2648	NDB or GPS Rwy 27, Amdt 12A...
10/11/00	TX	Childress	Childress Muni	0/2630	GPS Rwy 35, Orig... This replaces FDC 0/1490

[FR Doc. 00–26951 Filed 10–19–00; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 30206; Amdt. No. 2014]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Donald P. Pate, Flight Procedure Standards Branch (AmcAFS–420), Flight Technologies and Programs Division, Flight Standards Service, Federal Aviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd. Oklahoma City, OK. 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK. 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (NFDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in U.S. Standard for Terminal Instrument Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

Conclusions

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on October 13, 2000.

L. Nicholas Lacey,

Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49(b)(2).

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective November 2, 2000*

Medford, OR, Rogue Valley Intl-Medford, ILS/DME RWY 14, Amdt 14, CANCELLED
Medford, OR, Rogue Valley International-Medford, ILS RWY 14, Orig
Scappoose, OR, Scappoose Industrial Airpark, LOC/DME RWY 15, Amdt 1
Dallas, TX, Dallas-Love Fields, ILS RWY 13L, Amdt 31

** * * Effective November 30, 2000*

Gulf Shores, AL, Jack Edwards, RNAV RWY 9, Orig
Prattville, AL, Autauga County, RNAV RWY 9, Orig
Port Heiden, AK, Port Heiden, VOR/DME RWY 13, Amdt 1, CANCELLED
Orlando, FL, Orlando Sanford, ILS RWY 27R, Orig
Chicago/Aurora, IL, Aurora Muni, RNAV RWY 15, Orig
Chicago/Aurora, IL, Aurora Muni, RNAV RWY 33, Orig
Louisville, KY, Bowman Field, VOR OR GPS RWY 14, Amdt 9A, CANCELLED
Louisville, KY, Bowman Field, VOR RWY 32, Amdt 14A, CANCELLED
Alexandria, LA, Alexandria Intl, RNAV RWY 14, Orig
Hammond, LA, Hammond Muni, NDB OR GPS RWY 18, Amdt 2B
Hyannis, MA, Barnstable Muni-Boardman/Polando Field, RNAV RWY 24, Orig
Alexandria, MN, Chandler Field, ILS RWY 31, Orig
Alexandria, MN, Chandler Field, NDB RWY 31, Amdt 5
Olivia, MN, Olivia Regional, RNAV RWY 29, Orig
Picayune, MS, Picayune Muni, RNAV RWY 18, Orig
Picayune, MS, Picayune Muni, RNAV RWY 31, Orig
Picayune, MS, Picayune Muni, RNAV RWY 36, Orig
Malden, MO, Malden Muni, VOR/DME RNAV OR GPS RWY 13, Orig-A
Malden, MO, Malden Muni, VOR OR GPS RWY 31, Amdt 7B
Mexico, MO, Mexico Memorial, VOR/DME RWY 24, Amdt 1A
Mexico, MO, Mexico Memorial, GPS RWY 6, Orig-A
Mexico, MO, Mexico Memorial, GPS RWY 24, Orig-A
Perryville, MO, Perryville Muni, VOR/DME RNAV RWY 20, Amdt 3A
Perryville, MO, Perryville Muni, GPS RWY 2, Orig-A
Perryville, MO, Perryville Muni, GPS RWY 20, Orig-A
Popular Bluff, MO, Poplar Bluff Muni, GPS RWY 18, Orig-B
Sedalia, MO, Sedalia Memorial, GPS RWY 18, Orig-B
Sedalia, MO, Sedalia Memorial, GPS RWY 36, Orig-B
Sikeston, MO, Sikeston Memorial Muni, VOR RWY 20, Amdt 3C
Poplar, MT, Poplar, RNAV RWY 9, Orig
Poplar, MT, Poplar, RNAV RWY27, Orig
Montgomery, NY, Orange County, GPS RWY 3, Orig, CANCELLED
Montgomery, NY, Orange County, RNAV RWY 3, Orig
Montgomery, NY, Orange County, RNAV RWY 8, Orig
Montgomery, NY, Orange County, RNAV RWY 21, Orig
Montgomery, NY, Orange County, RNAV RWY 26, Orig
Concord, NC, Concord Regional, ILS RWY 20, Amdt 1
Sand Springs, OK, William R. Pogue Muni, VOR OR GPS–A, Amdt 2
Pottsville, PA, Schuylkill County/Joe Zerbey, RNAV RWY 11, Orig
Pottsville, PA, Schuylkill County/Joe Zerbey, RNAV RWY 29, Orig
Pottsville, PA, Schuylkill County/Joe Zerbey, VOR/DME RNAV RWY 29, Amdt 3, CANCELLED
Memphis, TN, Memphis Intl, RADAR–1, Amdt 39
Smithville, TN, Smithville Muni, RNAV RWY 24, Orig
Somerville, TN, Fayette County, NDB RWY 19, Amdt 1
Rockport, TX, Aransas CO, NDB RWY 14, Amdt 1
Sherman/Denison, TX, Grayson County, VOR/DME RNAV RWY 35R, Orig-B
Longview, TX, Gregg County, NDB RWY 13, Amdt 14B
Tyler, TX, Tyler Pounds Field, VOR/DME OR GPS RWY 4, Amdt 3C
Tyler, TX, Tyler Pounds Field, VOR/DME OR GPS RWY 22, Amdt 3C
Tyler, TX, Tyler Pounds Field, VOR RWY 31, Amdt 1C
Tyler, TX, Tyler Pounds Field, NDB OR GPS RWY 13, Amdt 17D

[FR Doc. 00–26950 Filed 10–19–00; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

49 CFR Part 571

[Docket No. NHTSA 99–5063; Notice 2]

RIN 2127—AH 83

Federal Motor Vehicle Safety Standards; Interior Trunk Release

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Final rule.

SUMMARY: This document establishes new Federal motor vehicle safety standard (FMVSS) No. 401; Internal trunk release, that requires all new passenger cars with trunks be equipped with a release latch inside the trunk compartment beginning September 1, 2001. Instead of a release latch, this document also permits the installation of an alternative system such as a passive trunk release system which would detect the presence of a human in the trunk and would automatically unlatch the trunk lid. During the summer of 1998, eleven children died when they inadvertently trapped themselves in the trunk of a car. This new standard will provide children and others who find themselves trapped inside a passenger car trunk a chance to get out of the trunk alive.

DATES: *Effective Date:* The effective date of the final rule is September 1, 2001.

Early compliance date. You have the option of early compliance with this final rule beginning October 20, 2000.

Petition for reconsideration deadline. If you wish to petition for reconsideration of this final rule, you must submit it so that we receive your petition not later than December 4, 2000.

ADDRESSES: In your petition for reconsideration, you should refer to the docket number and notice number at the beginning of this final rule, and submit the petition for reconsideration to: Administrator, NHTSA, 400 Seventh Street, S.W., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT: Kenneth O. Hardie, Office of Crash Avoidance Standards, NHTSA, 400 Seventh Street, S.W., Washington DC 20590. Mr. Hardie's telephone number is (202) 366–6987 and his facsimile number is (202) 493–2739.

SUPPLEMENTARY INFORMATION:

Previous Agency Looks at Trunk Entrapment

The issue of motor vehicle trunk entrapment was initially raised in May

of 1984 when NHTSA was petitioned by Mr. William Proehl to require that every new car be equipped with a trunk release lever that can be easily operated from inside a vehicle's trunk. The petitioner listed various possible circumstances of accidental and intentional entrapment in the trunk of a vehicle. The petitioner stated that persons such as alarm and stereo installers, mechanics, playful children, pranksters, and crime victims may be trapped in the trunk. The petitioner also believed that an elderly person might fall into the trunk and thereby become entrapped. Mr. Proehl asked NHTSA to require an inside trunk release in all new cars to facilitate the release of these victims.

After reviewing the petition and the available relevant information, NHTSA published a notice of denial of petition for rulemaking which concluded that the likelihood of an internal trunk lever ever being used was remote (49 FR 47277; December 3, 1984). NHTSA stated in 1984 that it was not aware of any data indicating that there is much likelihood of occurrence of unintentional entrapment in a vehicle's trunk. NHTSA's rationale for its conclusion stated that trunk lids are spring-loaded in the open position and, therefore, not likely to close by themselves with someone inside. Because the lids are spring loaded, it is difficult to close the trunk from any position except standing behind the vehicle and pushing down on the outer surface of the trunk lid. From that position, a person has a full view of the trunk interior. The agency stated that it believed it would be extremely unlikely that a person would accidentally close the lid with someone inside. Concerning an elderly person falling into the trunk, the petitioner suggested that entrapment could occur if snow on the trunk closed the lid when the person fell. It was unclear to NHTSA how the trunk would entrap the person in this circumstance, since it is unlikely that the individual would fall in such a way that more than his or her upper torso is inside the trunk. Again, in this situation, NHTSA stated its belief that an internal trunk release lever would not likely need to be used.

The 1984 notice stated that NHTSA was aware that victims of crime or pranks are, on occasion, purposely locked in the trunk of a vehicle. However, the petitioner did not provide any data supporting the benefits of an internal release mechanism in these circumstances. The agency did not and still does not know, for example, how often a victim of a crime or prank who is purposely locked in a vehicle's trunk might also be secured so that an internal release mechanism could not be operated.

Between May 1984 and July 1998, NHTSA received approximately two dozen letters expressing concern about trunk entrapments. In no case was data provided to the agency about the size of this safety problem.

Events of the Summer of 1998

In June 1998, Congress directed NHTSA to conduct a study of the benefits to the public of a regulation requiring the installation in motor vehicles of an interior device to release the trunk lid. NHTSA was required to submit a report on the results of the study to Congress by December 1999. Additionally, during a three-week period between July and August of 1998, eleven children died in three separate incidents when they locked themselves in the trunk of an automobile.

The Work of the Expert Panel on Trunk Entrapment

In September 1998, NHTSA began to gather all available information on the issue of trunk entrapments. In general, it appears that the victims of trunk entrapment include two distinct categories: people who are intentionally locked in a motor vehicle trunk by criminals and people, mostly children, who inadvertently lock themselves in the trunk. The problem's solution requires some understanding of criminal and child behavior, the human factors problem of designing a mechanism that children and others will be able to operate quickly when frightened and in the dark, and other issues including location and possible power requirements. Considering the broad array of issues, NHTSA decided that instead of having the government develop a solution on its own, a more effective way of addressing and understanding the issue would be to bring business, government and civic leaders, medical and engineering researchers and a broad coalition of concerned organizations together to work to prevent trunk entrapments. To accomplish this, NHTSA decided to convene an independent panel of experts.

In November 1998, NHTSA asked Ms. Heather Paul of the National Safe Kids Campaign to chair an Expert Panel for the purpose of developing recommendations and strategies by mid-1999 for addressing the issue of deaths and injuries resulting from motor vehicle trunk entrapment. The Expert Panel on Trunk Entrapment consisted of representatives from various industries, including vehicle manufacturers, law enforcement groups, experts in child psychology and behavior, child safety advocates, the medical community, other Federal government agencies, and other interested parties. NHTSA officials were not members of the panel, but attended all meetings as observers. NHTSA's role was to be available to provide information and advice to the Panel members when asked, on issues such as outreach, marketing, education, training, existing federal standards, research and statistical information.

This Expert Panel met three times in Washington, DC, in January, March, and May 1999. At the first meeting, at the request of the Panel's chairperson, NHTSA presented an overview of the available data on the size of the safety problem. NHTSA's report is available in the public docket in both its original and revised form (Docket No. NHTSA 1999–5063–2 and 5063–3, respectively). The report concluded that existing Federal databases had very little information on the problem of trunk entrapment, and described our search of data collected by this agency, as well as the Consumer Product Safety Commission, the National Center for Health Statistics, and the Federal Bureau of Investigation. The available data indicated there have been 21 deaths in 11 incidents of inadvertent trunk entrapment from 1987 to 1999.

Also at the first meeting, Janette Fennell of Trunk Releases Urgently Needed Coalition (TRUNC), a non-profit group dedicated to improving trunk safety, made a presentation suggesting that trunk entrapments happen with greater regularity than is generally believed. Ms. Fennell said that, as of January 1999, she had gathered anecdotal evidence and media reports of more than 900 cases of trunk entrapment. Ms. Fennell's presentation was followed by a presentation by Lenore Terr, a child psychologist. Ms. Terr explained that evidence suggests that small children basically ''shut down'' and passively wait for rescue in situations like trunk entrapment. Hence, she recommended that any trunk release must be very simple or it will not help small children.

The next presentation at the first meeting was by Mr. Robert Lange of General Motors Corporation (GM). Mr. Lange presented GM's research and trunk safety retrofit solution. GM's interior release mechanism is a handle that is lighted for 30 minutes after the trunk is closed. GM's research found that most 3- to 6-year old children could successfully use this handle. The success rate increased dramatically as children got older. However, Mr. Lange

emphasized that neither GM's handle nor any other approach will allow all 3- to 6-year old children to get out of a trunk alive. That is why, according to Mr. Lange, GM's retrofit switch requires a deliberate movement of a switch to latch the trunk closed. GM believes this will prevent a significant portion of inadvertent trunk entrapments.

The final presentation at the first meeting was by Wayne Lord, of the FBI's National Center for the Analysis of Violent Crime. Mr. Lord said we learn about criminals by studying their reactions to certain situations or stimuli. These reactions allow one to predict likely future behavior when confronted with those situations or stimuli. There are currently no studies of which Mr. Lord is aware that involve the behavior of criminals who knew there was a trunk release inside the trunk. Hence, there is no scientific basis for predictions about what criminals will do if there are inside trunk releases (either harm or immobilize victims or ignore or forget about the trunk release). Any prediction as to which of these two courses criminals will take is just a guess, and the FBI will not do that.

At the second meeting of the Expert Panel on March 9, 1999, the first presentation was by Dr. Jonathan Arden, a forensic pathologist and the Medical Examiner for the District of Columbia. Dr. Arden provided a detailed medical description of asphyxiation and hyperthermia, the diagnoses on the death certificates of the children who died in the trunks of cars. Dr. Arden suggested the preferred approach would be to get the children out of the trunk as quickly as possible. The other presentation at the second meeting was by Lois Fingerhut of the National Center for Health Statistics (NCHS), who gave information about the pilot program NHTSA and NCHS have undertaken to look at non-crash deaths in vehicles. Ms. Fingerhut gave out a copy of a standard death certificate and explained how and where the information on the cause of death is coded.

The Expert Panel spent a significant part of the second meeting discussing possible paths for getting inside trunk releases into vehicles. The options considered were:

1. *Rely on voluntary actions by manufacturers to install inside trunk releases.* The potential benefits identified with this path were that it allows maximum freedom to develop and install a variety of different solutions without imposing any unintended regulatory obstacles. The potential negative implications of this path were that not all manufacturers would necessarily install inside trunk releases on all their vehicles.

2. *NHTSA Establishes a Requirement for Vehicles to be Equipped with Inside Trunk Releases without any Performance Requirements.* The potential benefit of this path is that it allows manufacturers maximum freedom to experiment with different designs of inside trunk releases, while assuring that all vehicles with trunks will have an inside trunk release. The potential negative implications of this path were that, absent performance requirements, the goals of the requirement might not be fulfilled. Manufacturers might choose ineffective inside trunk releases that would fully comply with such a standard.

3. *NHTSA Establishes a Detailed Performance Requirement for Inside Trunk Releases.* The potential benefit of this path is that it establishes clear guidance as to what performance is expected from inside trunk releases. The potential negative of this path is the amount of time it would take to conduct research to determine what performance requirements should be established. In addition, detailed performance requirements can pose obstacles to new technologies not available at the time the performance requirements are established.

The Expert Panel did not decide on any one of these three options at its second meeting, but there was significant discussion of each of these courses of action. The Panel decided to wait to make any recommendation as to the approach it would recommend.

At the third meeting of the Expert Panel on May 3, 1999, Mr. Michael Stando of Ford Motor Company gave a presentation about the inside trunk release that will be original equipment on all of its model year 2000 cars. This decision by Ford affects 1.8 million cars and three latch suppliers. Mr. Stando said that Ford generated 22 different potential approaches. Ford consulted a psychologist specializing in child behavior. The psychologist said that the most natural response for children 18 months to 4 years old to an object that interests them is to grasp the object and pull it toward themselves, to put it in their mouth if they are younger and to visually examine it more closely if they are older. Mr. Stando stated that Ford human factors specialists then tested their symbol and symbol/handle recognition on 27 children between the ages of three and five. Eighteen of the 27 children achieved at least partial symbol/handle recognition. Ford's inside trunk release is cable-operated with a T-shaped handle. The handle is sized for a child's hand and made of polypropylene, like many food containers. Mr. Stando said that the handle has a phosphorescent ''glow-in-the-dark'' additive, so it needs no electrical power. The handle is quick-charging—it needs only 10 seconds of garage light to glow visibly inside the closed trunk. The glow was said to be very long-lasting (up to 8 hours when fully charged). The handle operates with a pull motion. It is low effort and requires only one inch of travel, factors designed to make the trunk release system child-friendly, according to Mr. Stando. In addition, this mechanism can be retrofitted on Ford cars from one to five model years back. Mr. Stando announced that Ford will make this release available as a retrofit option for these older vehicles.

As a result of the information and discussions at these three meetings, the Expert Panel announced a series of recommendations on June 8, 1999. One of these recommendations was that ''[a]ll automobile manufacturers should design and install trunk safety features, including internal trunk release mechanisms, into all new vehicles by January 1, 2001.'' Another recommendation was that NHTSA ''should issue a standard requiring vehicles to be equipped with internal trunk release mechanisms.'' The standard should hold the automobile industry accountable for taking action, yet allow manufacturers the freedom to determine optimal design solutions. Manufacturers are urged to pursue voluntary action rather than waiting for the effective date of this final rule.

Notice of Proposed Rulemaking (NPRM)

On December 17, 1999, NHTSA published an NPRM in the **Federal Register** proposing a new FMVSS to require that all new vehicles with trunks come equipped with a release latch inside the trunk compartment beginning January 1, 2001 (See 64 FR 70672). The comment period for the notice ended on February 15, 2000. Of the 266 comments on the NPRM (some comments were improperly filed in the Trunk Entrapment Docket, NHTSA Docket No. 1999–5063), only two commenters stated that they were opposed to the proposed new standard. One individual (a member of the general public) stated, ''I do not believe that trunk releases of this nature should be mandatory. An alternative to this may be to make it mandatory that dealerships offer this as an option.'' The other comment in opposition to the new standard was from Volkswagen AG, Audi AG and Volkswagen of America, Inc., (Volkswagen). Volkswagen in referring

to the 1984 NHTSA denial of a petition to issue a Standard for inside trunk releases stated, ''Volkswagen believes that the NHTSA reasons for denying that petition are still applicable.''

A significant number of commenters simply stated their support for the proposed rule. In general, the commenters can be categorized into four different groups, general public; vehicle manufacturers, suppliers, and associated trade associations; safety advocate institutions; and other groups and entities, *i.e.*, members of state governments, members of the medical community, etc. A summary of the issues raised and concerns expressed is presented below, along with NHTSA responses:

Summary of Comments and Issues Raised

The following is a summary of issues raised and concerns expressed regarding the NPRM. These concerns and issues are as summarized below:

Comment/Concerns/Issues

• *Application*—Some commenters stated that the NPRM is ambiguous on the scope of the proposed Standard, *i.e.*, the preamble under the heading of Scope of Proposal (page 70675) states regarding the definition of trunk lid, ''The effect of this definition is that the requirement for an internal release would not apply to vehicles that do not typically have trunk lids, like hatchback cars, station wagons, pickup trucks, sport utility vehicles, and vans.'' However, the proposed text of Paragraph S2, Application states, ''This standard applies to passenger cars, multipurpose passenger vehicles, buses, and trucks that have a trunk lid.'' Thus, the Application section includes vehicles the preamble would have excluded. Limiting the scope of the proposal to passenger cars would be consistent with field data, the recommendations of the expert panel and the preamble.

NHTSA Response—The inclusion of multipurpose passenger vehicles, buses and trucks in the Application section of the proposed standard led some commenters to conclude that NHTSA was proposing to apply the internal latch release requirements to trunks and storage compartments of a broad range of vehicles other than passenger cars. NHTSA has clarified the Standard by adding a definition of ''trunk compartment'' and changing the Application section so that the standard will only apply to new passenger cars that have ''trunk compartments.'' The apparent inclusion of other motor vehicle types in the Application section of this standard resulted to some degree from NHTSA's adoption in the NPRM of the Standard No. 206; ''Door locks and door retention components'' definition of ''trunk lid.'' Standard No. 206 applies to passenger cars, multipurpose passenger vehicles and trucks. Door locks and retention components on buses are not covered by FMVSS No. 206.

NHTSA's decision to limit the application of this new standard to passenger cars is based on the following information. The available data and anecdotal evidence of entrapment are associated with passenger cars only. There is essentially no mention of any entrapment having occurred in buses or trucks or in multipurpose passenger vehicles. Additionally, there does not appear to be evidence of accidental entrapment involving medium or heavy-duty vehicles. Medium and heavy-duty vehicles are not readily accessible to small unattended children to the same extent as are passenger cars.

With respect to buses, the School Bus Manufacturers Technical Council commented that,

> The storage doors on school buses often are provided with latches and locking devices, and require a key to unlock and open. Unlike passenger cars, there is no lever or switch in the occupant compartment that unlocks and opens the storage compartment. If the compartment is locked, in order for entrapment to occur, the child would have to obtain a key from the bus driver or facility where the bus was stored or parked. It seems unlikely that a bus driver or other adult would give a bus key to a child.
>
> In those instances where the storage compartment on a school bus does not require a key to unlock, the physical size and weight of the storage compartment door raise serious questions as to whether a child could open the door fully.'' ''If a child were able to fully open a storage compartment door on a school bus and climb into the storage compartment, it does not appear the child could then close the door behind himself or herself.

The same appears to be true for commercial passenger buses. For buses, and most trucks and multipurpose passenger vehicles, ''trunks'' consist of storage compartments contained in the exterior sides of the vehicles, usually below the floor of the passenger compartment. These storage compartments are used for storage of battery, luggage and/or cargo, the spare tire and tools, etc. The compartment doors (trunk lids) on these vehicles are typically contained in a vertical plane when closed and open outward and upward to allow items to be placed horizontally into the compartment (trunk). These doors are large, commonly 22 by 54 inches, and heavy, approximately 40 pounds.

Since the proposed rule offers no apparent benefits in its applicability to these other vehicle types, *i.e.*, multipurpose passenger vehicles, buses, and trucks, NHTSA is not including them in the scope and application of this Standard.

If in the future, NHTSA concludes that trunk entrapment is a problem with multipurpose passenger vehicles, buses, and trucks, the agency will at that time evaluate the hazard and determine what solution will best prevent entrapment.

Concerning the applicability of this Standard to hatchbacks, if a movable body panel, that provides access to a space wholly partitioned from the occupant compartment, encloses that space upon closing a permanently attached lid such as a hatchback lid, then the closing lid is considered a trunk lid for the purposes of this rule.

• *Definition of ''Trunk lid''*—In using the FMVSS No. 206 definition of ''trunk lid'' as proposed in the NPRM, a pick-up bed with a tonneau cover, for example, could be interpreted to be a trunk lid. The back of the pick-up cab is a permanently attached partition and a pick-up bed has at least one ''movable body panel that provides access from outside the vehicle,'' for example, the tailgate, a tonneau (soft or rigid) or the hinged panel of a pick-up bed cap. Under the proposed text of the Standard, pick-up trucks could be required to install internal trunk releases. Extended further, a covered toolbox in a pick-up bed or a covered storage compartment accessible from the exterior could likewise require an interior trunk release.

Many trucks produced for commercial or vocational use have storage compartments (a movable body panel that provides access from outside the vehicle to a space wholly partitioned from the occupant compartment by a permanently attached partition or a fixed or fold-down seat back) that could be included under the ''trunk lid'' definition. This would include locking storage cabinets on the side of a truck body or roll up door of a beverage delivery truck. The National Truck Equipment Association (NTEA), recommended that the definition of trunk lid be clarified to exclude such storage compartments and/or that the scope of the proposal be restricted to vehicles with gross vehicle weight rating of 6,000 pounds or less. Many vehicle manufacturers, including General Motors, Ford Motor Company, Daimler Chrysler, Blue Bird Body Company, and the Truck Manufacturers Association recommended that NHTSA

limit the application of this Standard to passenger cars.

NHTSA's Response—As stated in the NHTSA response to the comments regarding Application, the applicability of this Standard has been amended and is limited to passenger cars. This should address the problem identified for storage space on pick-up trucks, multipurpose passenger vehicles, buses, and trucks in general.

• *Trunk Size*—The definition of a ''trunk lid'' may be read to apply to numerous situations in which it was not intended. For example, it may apply to the panel opening to the fuel filler tube. That door is a movable panel that provides access from outside the vehicle to a space that is wholly partitioned from the passenger compartment. Yet no person could be trapped inside that space. As proposed, the definition includes storage compartments regardless of their size. A number of manufacturers recommended that NHTSA specify or add a minimum trunk volume. Porsche, Daimler-Chrysler, Toyota Motor Corporation, the Association of International Automobile Manufacturers, and some other automobile manufacturers recommended a space of 35″ x 15″ x 12″ be defined as the minimum area beneath a trunk lid that would require an internal trunk release mechanism. They indicated that these dimensions are based upon the shoulder width and the torso length of the Hybrid III Three-Year-Old Child Crash Test Dummy used by NHTSA during vehicle crash testing.

NHTSA's Response—NHTSA agrees that an internal release mechanism should not be required to open compartments that are so small that children or adults cannot get into them. NHTSA also agrees with the suggestion to determine the appropriate size based on the dimensions of a child three years of age. In order to make such a determination objective, NHTSA has decided to use the NHTSA three-year-old Hybrid III child crash test dummy, as a surrogate for the minimum size of a child that might find itself within the trunk space. This dummy represents an objective and practicable surrogate with clearly defined parameters for the average-size, or 50th percentile, 3-year-old male child. If the compartment closed by the trunk lid is large enough to close and latch the trunk lid when a Part 572—Anthropomorphic Test Devices, Subpart C—3-Year Old Child is placed inside the trunk compartment, then that vehicle must be equipped with a release mechanism inside the trunk compartment that unlatches the trunk lid. Such an evaluation must be conducted with all standard equipment in the trunk (i.e., spare tire, wheel jack, tools, etc.).

NHTSA rejects the recommendation of using a rectangular box dimensioned to the specifications proposed by some of the automobile manufacturers, *i.e.*, 35″ long x 15″ height x 12″ wide or 89 cm x 38 cm x 30 cm, because a rigid rectangular box may not fit in some trunks due to the trunk opening or the depth behind the opening, while the flexible Hybrid III Crash Test Dummy and real children could easily fit into the space. Thus, NHTSA has decided that the Part 572—Anthropomorphic Test Devices, Subpart C—3-Year-Old Child, mentioned by commenters, is the appropriate test device. Also, note that NHTSA conducted an experiment using the completely assembled NHTSA three-year-old Hybrid III child crash test dummy. During the experiment NHTSA constructed a rectangular box to the specifications proposed by some of the commenters, *i.e.*, 35″ long x 15″ high x 12″ wide or 89 cm x 38 cm x 30 cm. We were able to easily place the three year-old male hybrid dummy within the confines of the box. To fit the dummy within the rectangular box, it was only necessary to slightly bend its knees. Obviously the test dummy need not be equipped with the accelerometers required in Part 572.21, since no crash test will be conducted.

• *Front-Opening-Trunks/Hoods*—Porsche and the Association of International Automobile Manufacturers (AIAM) argued that the new standard should not apply to front luggage compartments which are subject to the secondary latch requirement of FMVSS No. 113. FMVSS No. 113 requires each hood to have a hood latch system. S4.2 of FMVSS No. 113 requires vehicles with front opening hoods (such as those found on the Porsche 911 and Boxster) to be provided with a second latch position on the hood latch system or with a second hood latch system. The purpose of the FMVSS No. 113 requirement is to prevent the hood from flying open while the vehicle is in operation and obstructing the driver's forward view through the windshield. Porsche states in its comments on the NPRM, ''While it is conceivable that a very small child could become entrapped in a front luggage compartment, we believe that the risk of injuring the driver, passengers and other motorist in the event the front hood is opened during vehicle operation far exceeds the potential benefits to be derived from providing the trunk release.'' Porsche and AIAM further stated that since the application of FMVSS No. 401 to compartments with front-opening hoods directly conflicts with the objectives of FMVSS No. 113, they recommend NHTSA modify S2 of Standard No. 401 to specifically exclude compartments with front opening hoods.

NHTSA's Response—For purposes of this Standard, a trunk compartment means a space that is wholly separated from the occupant compartment of a passenger car by a permanently attached partition or by a fixed or fold-down seat back and/or partition, and that space can be accessed from outside the motor vehicle by a trunk lid. This space is not the compartment that holds the vehicle's engine or battery compartment. A trunk lid means a movable body panel that provides access from outside a motor vehicle to a trunk compartment. The fact that the trunk compartment is located at the front of the vehicle does not reduce the need for an entrapped individual, especially a small child, to be able to escape the trunk when entrapped.

NHTSA is aware that unlocking and opening a front opening trunk/hood while the vehicle is in motion results in a risk of injuring the driver, passenger and other motorist due to obstruction of the driver's forward view. However, we conclude that the interest in getting the victim out of the trunk is paramount. Therefore, the Standard No. 113 requirement for the secondary latch must be subservient to the requirement for an interior trunk release in those situations, *i.e.*, when the trunk release mechanism is actuated, the release mechanism must completely release the trunk lid from all latching positions of the trunk lid latch.

• *Hinged Back Doors*—Ford Motor Company recommended that the Standard specifically exclude hinged back doors, such as those found on the rear of vans, SUVs, hatchbacks, and station wagons, from the requirement for an internal trunk release mechanism. Ford noted that hinged back doors, as defined in FMVSS No. 206, require latches with both primary and secondary latch positions. Ford further stated that an internal trunk release mechanism on hinged back doors would directly conflict with the requirements of S4.4.2 of Standard No. 206 which states, ''When the locking mechanism is engaged, both the inside and outside door handles or other latch release controls shall be inoperative.'' Ford argues that providing an internal trunk release mechanism on a hinged back door also introduces the possibility of unintended actuation by a child while the vehicle is in motion. Accordingly, this may actually create a greater risk to child safety.

NHTSA's Response—Contrary to Ford's assertions, S3 of Standard No. 206 expressly provides that the term ''back door'' does not include a ''trunk lid.'' Thus, the requirements in S4.4.2 of Standard No. 206 only apply if the movable panel is not a trunk lid, and the requirements in this standard only apply if the movable panel is a trunk lid. Thus, there is no conflict along the lines Ford suggested.

• *Leadtime*—Some vehicle manufacturers stated that an engineering solution for an inside-the-trunk release mechanism is easier to implement for some model lines than for other model lines. Issues involving design, testing (component, system, complete vehicle), and quality assurance (including tolerance ''stack-up''), have an effect upon their ability to meet the proposed effective date for all affected model lines. They stated that production tooling needs to be designed, built, and tested in order to ensure that these systems are manufactured in accordance with strict quality control. As a solution is needed for already-existing (in-production) and multiple model lines, each trunk release system must be designed differently in order to interface with its corresponding trunk latch system. Thus, some manufacturers argued that certain model lines will need more time than a January 1, 2001 effective date in order to accomplish the above engineering activities. Volvo Cars of North America, Inc., and Ford Motor Company requested that a phase-in schedule be promulgated by NHTSA and that all affected vehicles be required to comply 18 months following enactment of the Final Rule, *i.e.*, 60% of affected vehicles be required to comply starting 12 months following enactment of the Final Rule, and 100% 6 months thereafter. American Honda Motor Co., Inc.; BMW of North America, Inc.; and Volkswagen of North America, Inc., all recommended a phase-in period with a start date no earlier than September 1, 2001, assuming a Final Rule publication date in the July/September 2000 time-frame. Honda recommended a completion date of September 1, 2002. Porsche Cars North America, Inc., stated that it will not be until the 2003 model year that it will be able to begin introducing internal trunk release systems into production vehicles. The Association of International Automobile Manufacturers (AIAM) recommended an extension to the effective date of the Standard with an implementation schedule of 40%, 70% and 100% phase-in, respectively, of model years 2003, 2004, and 2005.

These manufacturers also stated that, if the final rule applies to non-passenger cars and depending on the definition of ''trunk lid,'' additional leadtime would be required, because it is not possible to estimate the time necessary to redesign latch systems and vehicles until they know which additional vehicles will be affected.

NHTSA's Response—As noted above, the Standard will apply to passenger cars only. NHTSA understands that the proposed effective date for this Standard of January 1, 2001 might have represented a challenge to some manufacturers because of the need to develop design solutions and modify production systems as required for the system installation in vehicles during assembly. At the same time, the agency does not believe that designing and installing an internal trunk release mechanism presents a major engineering and installation challenge to vehicle manufacturers. One reason for this belief is that the requirements in the final rule follow closely the June 1998 recommendations of the Expert Panel. Another is that some manufacturers began installing an emergency trunk release as standard equipment on a range of vehicles at the beginning of this calendar year.

NHTSA has decided on an effective date for this Standard on September 1, 2001. This will provide a leadtime of approximately one year from the date of issuance of this final rule. This effective date will require manufacturers to finish any remaining design and production decision quickly, but allow them sufficient time to implement the changes at the start of a new model year.

• *Technology Limiting*—In S.4 of the proposed Standard, NHTSA is requiring that manufacturers provide some form of illumination so that trapped occupants can locate the release mechanism. According to commenters, this requirement suggest that the agency incorrectly assumed that all manufacturers will rely solely on handles or other mechanical type devices which require actuation by the trapped occupant. As there are other more advanced concepts imaginable (*e.g.*, system using heat and motion sensors to unlatch the trunk lid), NHTSA should modify S.4 to specify that the illumination requirement applies only to mechanical type handle systems which require actuation by the trapped occupant.

NHTSA's Response—Because some manufacturers may decide to use more advanced technology than a system that requires actuation by the trapped occupant, *i.e.*, a passive device which would detect the presence of a human in the trunk and would automatically unlatch the trunk lid, NHTSA concurs with the recommendation to modify the text of S4 such that the illumination requirement applied to ''manually-activated'' systems. The text of S4, Requirements, has been modified such that the illumination requirement is applicable to cars equipped with a release system which requires actuation by the trapped occupant.

Additionally, to assure that automatic systems exist in a manner consistent with the intent of this rulemaking, a requirement has been added regarding the performance of these systems. These systems must open the trunk lid within the first five minutes of an entrapment of a human being. We believe that this requirement will assure that the time of entrapment is sufficiently short that interior trunk temperature and heat will not cause a health crisis to entrapped persons. Thus, the text of S4, Requirements, has been modified to have a subsection for manual releases and a subsection for automatic releases.

• *Other Comments*—The organizations of Trunk Release Urgently Needed Coalition (TRUNC), the Center for Auto Safety (CAS), and some other responders to the NPRM recommended that NHTSA mandate retrofit kits for in-use vehicles. TRUNC urged NHTSA to mandate that retrofit kits be made available for all vehicles with trunks that have been manufactured for the past 10 years.

One manufacturer asked if the agency would permit a special ''valet'' key feature that could mechanically block out the internal trunk latch release system. This ''special valet key'' allows the owner to mechanically override the electronic locking system of the vehicles and thus prevent anyone from accessing the trunk or its contents, even with the remote transmitter, should the owner be required to turn his vehicle over to a valet or parking attendant. As noted earlier, this feature mechanically blocks out the internal trunk latch.

NHTSA's Response—While NHTSA has the authority to issue requirements regulating the performance of aftermarket equipment for use or installation in new or used vehicles, the agency cannot mandate manufacturing of particular types of equipment. Thus, while the agency could regulate the performance of retrofit interior trunk releases, it could not mandate that they be manufactured or made available to the public. With regards to the ''special valet key feature'' that could override the lock release system inside of the trunk of the vehicle, NHTSA will not permit such a feature. The convenience of assured trunk security is not

compelling enough to justify overriding this safety feature. The special valet key feature could also be used by criminals to keep their victim locked in the trunk.

Organization Within Federal Motor Vehicle Safety Standards

NHTSA has typically organized its safety standards so that the 100 series of standards represents the crash avoidance standards (those designed to reduce the likelihood of being in a crash), the 200 series of standards represents the crashworthiness standards (those designed to protect the occupant in the event of a crash), and the 300 series of standards represents the post-crash fire standards (those designed to minimize the likelihood of a fire after a crash). A standard for an internal trunk release doesn't fit into any of these categories because there is no crash associated with the problem of becoming trapped inside a locked trunk. Therefore, we have decided to establish a new series of standards, the 400 series, that will be dedicated to motor vehicle injury prevention in non-crash events. This standard for internal trunk releases will therefore be Standard No. 401.

Rulemaking Analyses and Notices

a. Executive Order 12866 (Regulatory Planning and Review) and DOT Regulatory Policies and Procedures

This rulemaking document was not reviewed under Executive Order 12866. It is not significant within the meaning of the DOT Regulatory Policies and Procedures. Information indicates that an approach to internal trunk releases such as Ford's can be implemented for about $2.00 per vehicle. Thus, we anticipate total costs of about $14 million. This impact is so minimal as to not warrant the preparation of a full regulatory evaluation.

b. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, whenever an agency is required to publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effect of the rule on small entities (*i.e.*, small business, small organizations and small governmental jurisdictions). However, no regulatory flexibility analysis is required if the head of an agency certifies the rule will not have a significant economic impact on a substantial number of small entities. As noted above, we estimate that the cost per passenger car this final rule will be about $2.00. The total cost for all passenger cars will be about $14 million (7 million passenger cars x $2.00). Based on this analysis, I certify that this final rule will not have a significant economic impact on a substantial number of small entities.

c. Executive Order 13132 (Federalism)

This rulemaking action has been analyzed in accordance with the principles and criteria contained in Executive Order 13132. This rule will not have a substantial direct effect on States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Accordingly, NHTSA has determined that this rule will not have sufficient federalism implications to warrant consultation with State and local officials or the preparation of a Federalism Assessment. Accordingly, a Federalism Assessment has not been prepared.

d. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) requires agencies to prepare a written assessment of the costs, benefits and other effects of proposed or final rules that include a Federal mandate likely to result in the expenditure by State, local or tribal governments, in the aggregate, or by the private sector, of more than $100 million annually. This rule would not have any such impacts on those parties. As noted above, the agency expects the costs associated with this rule to be about $2.00 per car, or about $14 million in the aggregate.

e. National Technology Transfer and Advancement Act

This rule is consistent with the National Technology Transfer and Advancement Act of 1995 (Pub. L. 104–113). Under the Act, ''all Federal agencies and departments shall use technical standards that are developed or adopted by voluntary consensus standards bodies, using such technical standards as a means to carry out policy objectives or activities determined by the agencies and departments.'' There are no such standards available at this time. However, one of the Expert Panel's recommendations was that the Society of Automotive Engineers (SAE) should begin work to develop a recommended practice for the design and performance of trunk safety features, including internal trunk release mechanisms. NHTSA will consider any such SAE recommended practice when it becomes available.

f. National Environmental Policy Act

NHTSA has analyzed this rulemaking action for the purposes of the National Environmental Policy Act. The agency has determined that adoption of this rulemaking action as a final rule will not have any significant impact on the quality of the human environment.

g. Executive Order 12778 (Civil Justice Reform)

This rule does not have any retroactive effect. Under section 49 U.S.C. 30103, whenever a Federal motor vehicle safety standard is in effect, a state may not adopt or maintain a safety standard applicable to the same aspect of performance which is not identical to the Federal standard, except to the extent that the state requirement imposes a higher level of performance and applies only to vehicles procured for the State's use. 49 U.S.C. 30161 sets forth a procedure for judicial review of final rules establishing, amending or revoking Federal motor vehicle safety standards. That section does not require submission of a petition for reconsideration or other administrative proceedings before parties may file suit in court.

h. Paperwork Reduction Act

This rule does not have any requirements that are considered to be information collection requirements as defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320.

List of Subjects in 49 CFR Part 571

Imports, Incorporation by reference, Motor vehicle safety, Reporting and recordkeeping requirements, Tires.

In consideration of the foregoing, NHTSA amends 49 CFR Chapter V as set forth below.

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

1. The authority citation for Part 571 continues to read as follows:

Authority: 49 U.S.C. 322, 30111, 30115, 30166 and 30177; delegation of authority at 49 CFR 1.50.

2. A new section 571.401 is added to Part 571, to read as follows:

§ 571.401 Standard No. 401; Internal trunk release.

S1. Purpose and scope. This standard establishes the requirement for providing a trunk release mechanism that makes it possible for a person trapped inside the trunk compartment of a passenger car to escape from the compartment.

S2. Application. This standard applies to passenger cars that have a trunk compartment.

S3. Definitions.

Trunk compartment means a space that:

(a) Is intended to be used for carrying luggage,

(b) Is wholly separated from the occupant compartment of a passenger car by a permanently attached partition or by a fixed or fold-down seat back and/or partition,

(c) Has a trunk lid, and

(d) Is large enough so that the three-year-old child dummy described in Subpart C of Part 572 can be placed inside the trunk compartment and, with the test dummy in the trunk compartment, the trunk lid can be closed and latched. (Note: For purposes of this standard, the Part 572 Subpart C test dummy need not be equipped with the accelerometers specified in Part 572.21.)

Trunk lid means a movable body panel that provides access from outside a motor vehicle to a trunk compartment.

S4. Requirements.

S4.1 Each passenger car with a trunk compartment must have an automatic or manual release mechanism inside the trunk compartment that unlatches the trunk lid.

S4.2(a) Each manual release mechanism installed pursuant to S4.1 of this section must include a feature, like lighting or phosphorescence, that allows the release mechanism to be easily seen inside the closed trunk.

(b) Each automatic release mechanism installed pursuant to S4.1 of this section must unlatch the trunk lid within 5 minutes of when the lid is closed with a person inside the trunk compartment.

S4.3 Actuation of each release mechanism required by S4.1 of this section must completely release the trunk lid from all latching positions of the trunk lid latch, notwithstanding the requirements of any other standards in part 571 of this title.

Issued on October 17, 2000.

Sue Bailey,

Administrator.

[FR Doc. 00–27038 Filed 10–17–00; 5:01 pm]

BILLING CODE 4910–59–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[I.D. 101300B]

Atlantic Highly Migratory Species Fisheries; Atlantic Bluefin Tuna

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Inseason transfer.

SUMMARY: NMFS adjusts the October-December subquota for the General category Atlantic bluefin tuna (BFT) fishery by transferring 25 metric tons (mt) from the Reserve, 15 mt from the Longline North subcategory quota, and 60 mt from the Angling category (large school size class for the northern area), for a revised coastwide General category subquota of approximately 264.4 mt for October-December, including addition of underharvest from the previous time periods. These actions are being taken to allow for maximum utilization of the U.S. landings quota of BFT while maintaining a fair distribution of fishing opportunities, preventing overharvest of the adjusted subquotas for the affected fishing categories, helping achieve optimum yield in the General category fishery, and allowing the collection of a broad range of data for stock monitoring purposes, consistent with the objectives of the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (HMS FMP).

DATES: Effective October 17, 2000 until December 31, 2000.

FOR FURTHER INFORMATION CONTACT: Pat Scida, 978-281-9208.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 et seq.) and the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.) governing the harvest of BFT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 635. Section 635.27 subdivides the U.S. BFT quota recommended by the International Commission for the Conservation of Atlantic Tunas among the various domestic fishing categories.

Under the implementing regulations at 50 CFR 635.27 (a)(7), NMFS has the authority to allocate any portion of the Reserve to any category quota in the fishery, other than the Angling category school BFT subquota (for which there is a separate reserve), after considering the following factors: (1) The usefulness of information obtained from catches in the particular category for biological sampling and monitoring of the status of the stock; (2) the catches of the particular category quota to date and the likelihood of closure of that segment of the fishery if no allocation is made; (3) the projected ability of the vessels fishing under the particular category quota to harvest the additional amount of BFT before the end of the fishing year; (4) the estimated amounts by which quotas established for other gear segments of the fishery might be exceeded; (5) effects of the transfer on BFT rebuilding and overfishing; and (6) effects of the transfer on accomplishing the objectives of the HMS FMP.

NMFS is also authorized under 50 CFR 635.27(a)(8) to transfer quotas among categories, or, as appropriate, subcategories, of the fishery. If it is determined, based on the factors listed here and the probability of exceeding the total quota, that vessels fishing under any category or subcategory quota are not likely to take that quota, NMFS may transfer inseason any portion of the remaining quota of that fishing category to any other fishing category or to the reserve.

Quota Adjustments

Annual BFT quota specifications issued under § 635.27 provide for a quota of 634.3 mt of large medium and giant BFT to be harvested from the regulatory area by vessels fishing under the General category quota during the 2000 fishing year. The General category BFT quota is further subdivided into time period subquotas to provide for broad temporal and geographic distribution of scientific data collection and fishing opportunities. The October-December subquota was initially set at 62.4 mt for the 2000 fishing year, and is currently 164.4 mt, after the addition of approximately 102 mt of unharvested subquota from previous periods. As of October 10, 2000, General category landings against this adjusted October-December subquota have totaled approximately 79 mt, reducing the available quota for the remainder of the season to 85.4 mt. An additional 10 mt has been set aside for the traditional fall New York Bight fishery.

After considering the factors for making transfers between categories and from the Reserve, NMFS has determined that 25 mt of the remaining 34.4 mt of Reserve should be transferred to the General category. In addition, NMFS has determined that 15 mt of the remaining Longline North subcategory quota of approximately 26 mt should be

transferred to the General category. Finally, NMFS has determined that 60 mt of the remaining Angling North large school/small medium subcategory quota of approximately 161.1 mt should be transferred to the General category. Thus, a total of 100 mt is transferred to the General category for an adjusted annual quota of 734.3 mt (including the 10 mt New York Bight set-aside). The adjusted subquota for the coastwide General category fishery for the October-December period is 264.4 mt.

Once the General category subquota for the October-December period has been attained, the coastwide fishery will be closed and NMFS will take action to reopen the New York Bight fishery. Announcement of the closure will be filed with the Office of the Federal Register, stating the effective date of closure, and further communicated through the Highly Migratory Species Fax Network, the Atlantic Tunas Information Line, NOAA weather radio, and Coast Guard Notice to Mariners. Although notification of closure will be provided as far in advance as possible, fishermen are encouraged to call the Atlantic Tunas Information Line at (888) USA-TUNA or (978) 281-9305, to check the status of the fishery before leaving for a fishing trip.

Classification

This action is taken under 50 CFR 635.27 and is exempt from review under Executive Order 12866.

Authority: 16 U.S.C. 971 *et seq.* and 1801 *et seq.*

Dated: October 17, 2000.

Bruce C. Morehead,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 00–27053 Filed 10–17–00; 4:17 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 65, No. 204
Friday, October 20, 2000

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 99–NM–250–AD]

RIN 2120–AA64

Airworthiness Directives; British Aerospace (Jetstream) Model 4101 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to all British Aerospace (Jetstream) Model 4101 airplanes. This proposal would require revising the Airworthiness Limitations Section of the Instructions for Continued Airworthiness to incorporate life limits for certain items and inspections to detect fatigue cracking in certain structures. This proposal is prompted by issuance of a revision to the airworthiness limitations of the British Aerospace J41 Aircraft Maintenance Manual. The actions specified by the proposed AD are intended to ensure that fatigue cracking of certain structural elements is detected and corrected; such fatigue cracking could adversely affect the structural integrity of these airplanes.

DATES: Comments must be received by November 20, 2000.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–250–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays. Comments may be submitted via fax to (425) 227–1232. Comments may also be sent via the Internet using the following address: 9-anm-nprmcomment@faa.gov. Comments sent via fax or the Internet must contain ''Docket No. 99–NM–250–AD'' in the subject line and need not be submitted in triplicate. Comments sent via the Internet as attached electronic files must be formatted in Microsoft Word 97 for Windows or ASCII text.

The service information referenced in the proposed rule may be obtained from British Aerospace Regional Aircraft American Support, 13850 Mclearen Road, Herndon, Virginia 20171. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Norman B. Martenson, Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2110; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications shall identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments, specified above, will be considered before taking action on the proposed rule. The proposals contained in this action may be changed in light of the comments received.

Submit comments using the following format:

- Organize comments issue-by-issue. For example, discuss a request to change the compliance time and a request to change the service bulletin reference as two separate issues.
- For each issue, state what specific change to the proposed AD is being requested.
- Include justification (*e.g.*, reasons or data) for each request.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the proposed rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons. A report summarizing each FAA-public contact concerned with the substance of this proposal will be filed in the Rules Docket.

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 99–NM–250–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–114, Attention: Rules Docket No. 99–NM–250–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Civil Aviation Authority (CAA), which is the airworthiness authority for the United Kingdom, has notified the FAA that a revision to Section 05–10–10, ''Airworthiness Limitations Description and Operation,'' of the British Aerospace J41 Aircraft Maintenance Manual (AMM) has been issued. [The FAA refers to the information included in that section of the AMM as the Airworthiness Limitations Section (ALS).] This revised section affects all British Aerospace (Jetstream) Model 4101 airplanes. The section provides mandatory replacement times and structural inspection intervals approved under section 25.571 of the Joint Aviation Requirements and the Federal Aviation Regulations (14 CFR 25.571). As airplanes gain service experience, or as results of post-certification testing and evaluation are obtained, it may become necessary to add additional life limits or structural inspections to ensure the continued structural integrity of the airplane.

The CAA advises that analysis of fatigue test data has revealed that certain inspections must be performed at specific intervals to preclude fatigue cracking in certain areas of the airplane. In addition, the CAA advises that certain life limits must be imposed for various components on these airplanes to preclude the onset of fatigue cracking in those components. Such fatigue cracking, if not corrected, could adversely affect the structural integrity of these airplanes.

Explanation of Relevant Service Information

British Aerospace has issued a revision to Section 05–10–10, ''Airworthiness Limitations Description and Operation,'' dated July 15, 1999, of the British Aerospace J41 Aircraft Maintenance Manual (AMM). This revised section of the AMM describes airworthiness limitations and mandatory life limits for the main landing gear, nose landing gear, fuel system, flap control system, and main baggage bay door. The section also describes new inspections and compliance times for inspection and replacement actions. Accomplishment of those actions will preclude the onset of fatigue cracking of certain structural elements of the airplane.

The CAA has approved Section 05–10–10 of the AMM to assure the continued airworthiness of these airplanes in the United Kingdom. The CAA has not issued a corresponding airworthiness directive, although accomplishment of the additional life limits and structural inspections contained in the AMM may be considered mandatory for operators of these airplanes in the United Kingdom.

FAA's Conclusions

The FAA has reviewed the revision to Section 05–10–10 of the AMM and all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States. Pursuant to the bilateral airworthiness agreement, the CAA has kept the FAA informed of the situation described above. This airplane model is manufactured in the United Kingdom and is type certificated for operation in the United States under the provisions of § 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. The FAA has determined that the revision to Section 05–10–10 of the AMM must be incorporated into the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require a revision to the ALS of the Instructions for Continued Airworthiness to incorporate inspections to detect fatigue cracking of certain Significant Structural Items and to revise life limits for certain equipment and various components that are specified in the previously referenced maintenance document.

Explanation of Action Taken by the FAA

In accordance with airworthiness standards requiring ''damage tolerance assessments'' for transport category airplanes [§ 25.1529 of the Federal Aviation Regulations (14 CFR 25.1529), and the Appendices referenced in that section], all products certificated to comply with that section must have Instructions for Continued Airworthiness (or, for some products, maintenance manuals) that include an ALS. That section must set forth:

- Mandatory replacement times for structural components,
- Structural inspection intervals, and
- Related approved structural inspection procedures necessary to show compliance with the damage-tolerance requirements.

Compliance with the terms specified in the ALS is required by sections 43.16 (for persons maintaining products) and 91.403 (for operators) of the Federal Aviation Regulations (14 CFR 43.16 and 91.403).

In order to require compliance with these inspection intervals and life limits, the FAA must engage in rulemaking, namely the issuance of an AD. For products certificated to comply with the referenced part 25 requirements, it is within the authority of the FAA to issue an AD requiring a revision to the ALS that includes reduced life limits, or new or different structural inspection requirements. These revisions then are mandatory for operators under § 91.403(c) of the Federal Aviation Regulations (14 CFR 91.403), which prohibits operation of an airplane for which airworthiness limitations have been issued unless the inspection intervals specified in those limitations have been complied with.

After that document is revised, as required, and the AD has been fully complied with, the life limit or structural inspection change remains enforceable as a part of the airworthiness limitations. (This is analogous to AD's that require changes to the Limitations Section of the Airplane Flight Manual.)

Requiring a revision of the airworthiness limitations, rather than requiring individual inspections, is advantageous for operators because it allows them to record AD compliance status only once—at the time they make the revision—rather than after every inspection. It also has the advantage of keeping all airworthiness limitations, whether imposed by original certification or by AD, in one place within the operator's maintenance program, thereby reducing the risk of non-compliance because of oversight or confusion.

Cost Impact

The FAA estimates that 59 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 1 work hour per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $3,540, or $60 per airplane.

The cost impact figure discussed above is based on assumptions that no operator has yet accomplished any of the proposed requirements of this AD action, and that no operator would accomplish those actions in the future if this AD were not adopted.

Regulatory Impact

The regulations proposed herein would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, it is determined that this proposal would not have federalism implications under Executive Order 13132.

For the reasons discussed above, I certify that this proposed regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A copy of the draft regulatory evaluation prepared for this action is contained in the Rules Docket. A copy of it may be obtained by contacting the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. Section 39.13 is amended by adding the following new airworthiness directive:

British Aerospace Regional Aircraft [Formerly Jetstream Aircraft Limited; British Aerospace (Commercial Aircraft) Limited: Docket 99–NM–250–AD.

Applicability: All Model Jetstream 4101 airplanes, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the owner/operator must request approval for an alternative method of compliance in accordance with paragraph (c) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously. To ensure continued structural integrity of these airplanes, accomplish the following:

Airworthiness Limitations Revision

(a) Within 30 days after the effective date of this AD, revise the Airworthiness Limitations Section (ALS) of the Instructions for Continued Airworthiness by incorporating Section 05–10–10, ''Airworthiness Limitations Description and Operation,'' dated July 15, 1999, of the British Aerospace J41 Aircraft Maintenance Manual (AMM) into the ALS.

(b) Except as provided by paragraph (c) of this AD: After the actions specified in paragraph (a) of this AD have been accomplished, no alternative inspections or inspection intervals may be approved for the structural elements specified in the document listed in paragraph (a) of this AD.

Alternative Methods of Compliance

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, International Branch, ANM–116, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, International Branch, ANM–116.

Note 2: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the International Branch, ANM–116.

Special Flight Permits

(d) Special flight permits may be issued in accordance with §§ 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished.

Issued in Renton, Washington, on October 16, 2000.

Donald L. Riggin,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 00–27052 Filed 10–19–00; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 20

[REG–106511–00]

RIN 1545–AX98

Estate Tax Returns; Form 706, Extension to File

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking and notice of public hearing.

SUMMARY: This document contains proposed regulations relating to the filing of an application for an automatic 6-month extension of time to file an estate tax return (Form 706). The proposed regulations provide guidance to executors of decedents' estates on how to properly file the application for the automatic extension. This document also provides notice of a public hearing on these proposed regulations.

DATES: Written and electronic comments must be received by January 18, 2001. Outlines of topics to be discussed at the public hearing scheduled for January 24, 2001, at 10 a.m., must be received by January 3, 2001.

ADDRESSES: Send submissions to: CC:M&SP:RU (REG–106511–00), room 5226, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. Submissions may also be hand delivered Monday through Friday between the hours of 8 a.m. and 5 p.m. to: CC:M&SP:RU (REG–106511–00), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC. Alternatively, taxpayers may submit comments electronically via the internet by selecting the ''Tax Regs'' option on the IRS Home Page, or by submitting comments directly to the IRS internet site at http://www.irs.gov/tax__regs/reglist.html. The public hearing will be held in Room 4716, Internal Revenue Service Building, 1111 Constitution Avenue, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Concerning the proposed regulations, Mary A. Berman, (202) 622–3090; concerning submissions of comments, the hearing, and/or to be placed on the building access list to attend the hearing, LaNita Van Dyke, (202) 622–7180 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act

The collection of information contained in this notice of proposed rulemaking has been submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)). Comments on the collection of information should be sent to the Office of Management and Budget, Attn: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies to the Internal Revenue Service, Attn: IRS Reports Clearance Officer, OP:FS:FP, Washington, DC 20224. Comments on the collection of information should be received by December 19, 2000. Comments are specifically requested concerning:

Whether the proposed collection of information is necessary for the proper performance of the functions of the Internal Revenue Service, including whether the information will have practical utility;

The accuracy of the estimated burden associated with the proposed collection of information (see below);

How the quality, utility, and clarity of the information to be collected may be enhanced;

How the burden of complying with the proposed collection of information may be minimized, including through the application of automated collection techniques or other forms of information technology; and

Estimates of capital or start-up costs and costs of operation, maintenance, and purchase of service to provide information.

The collection of information in this proposed regulation is in § 20.6081–1(b). To receive an extension of time to file an estate tax return, the executor of a decedent's estate must file Form 4768, ''Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.'' This information is required to obtain a benefit (an automatic 6-month extension of time to file an estate tax return). The collection of information is mandatory if the extension is requested.

The likely respondents are executors of decedents' estates.

The reporting burden contained in § 20.6081–1(b) is reflected in the burden of Form 4768, ''Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.''

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by the Office of Management and Budget.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax information are confidential, as required by 26 U.S.C. 6103.

Background

In 1970, Congress amended section 6075(a) to provide that the Federal estate tax return is to be filed within 9 months after the date of the decedent's death. Section 6081(a) provides that the Secretary may grant a reasonable extension of time for filing any return; however, except in the case of taxpayers who are abroad, no such extension may be for more than 6 months.

Under the current regulations, the district director or the service center has the discretion to grant an extension of time to file an estate tax return upon a showing of ''good and sufficient cause.'' Except in the case of executors who are abroad, the extension may not be granted for more than 6 months. Requests for an extension of time to file are made by completing Form 4768, ''Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.'' Upon receipt of a Form 4768, the IRS reviews the application, makes a determination, and notifies the applicant as to whether an extension is approved and, if so, the length of the extension.

In 1998, 110,100 estate tax returns were filed. In a significant number of these cases, the executors requested an extension of time to file. A majority of the applications requested and received the maximum 6-month extension allowed by the statute and the regulations. The IRS and the Treasury Department believe that executors of decedents' estates would benefit from the certainty created by an automatic 6-month extension of time to file Form 706 and that it is appropriate to provide for the extension.

Explanation of Provisions

Under the proposed regulations the executor of a decedent's estate will be allowed an automatic 6-month extension of time to file Form 706, ''United States Estate (and Generation-Skipping Transfer) Tax Return,'' beyond the 9 months provided for by section 6075(a). The application for the automatic extension must be submitted on Form 4768 (or in any other manner as may be prescribed by the Commissioner). The application must be filed with the IRS on or before the date prescribed by section 6075(a) for filing the Form 706 and it must include an estimate of the full amount of tax due. The automatic extension of time does not apply to filers of Forms 706–A, 706–D or 706–NA who will continue to use Form 4768 to request extensions of time to file and pay estate taxes. The automatic extension of time also does not apply to filers of Form 706–QDT who will continue to request any extension of time as provided in the instructions for Form 706–QDT. The proposed regulations continue to permit executors who are abroad to request extensions beyond the automatic 6-month period.

A return as complete as possible must be filed before the expiration of the automatic 6-month extension period. The return as filed will be the return required by section 6018(a)(1). An extension of time for filing the return does not operate to extend the time for payment of the tax.

The proposed regulations also revise § 20.6075–1 to conform to the changes proposed in § 20.6081–1.

Special Analysis

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. It also has been determined that section 553(b) of the Administrative Procedure Act (5 U.S.C. chapter 5) does not apply to these regulations, and because these regulations do not impose a collection of information on small entities, the Regulatory Flexibility Act (5 U.S.C. chapter 6) does not apply. Therefore, a Regulatory Flexibility Analysis is not required. Pursuant to section 7805(f) of the Internal Revenue Code, the regulations will be submitted to the Small Business Administration for comment on their impact on small business.

Comments and Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any written (a signed original and eight (8) copies) or electronic comments that are submitted timely (in the manner described in **ADDRESSES**) to the IRS. Treasury and the IRS specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be available for public inspection and copying.

A public hearing has been scheduled for January 24, 2001, at 10 a.m. in Room 4716, Internal Revenue Building, 1111 Constitution Avenue, NW., Washington, DC. Due to building security procedures, visitors must enter at the 10th Street entrance, located between Constitution and Pennsylvania Avenues, NW. In addition, all visitors must present photo identification to enter the building. Because of access restrictions, visitors will not be admitted beyond the immediate entrance area more than 15 minutes before the hearing starts. For information about having your name placed on the building access list to attend the hearing, see the **FOR FURTHER INFORMATION CONTACT** section of this preamble.

The rules of 26 CFR 601.601(a)(3) apply to the hearing. Persons that wish to present oral comments at the hearing must submit comments by January 3, 2001, and submit an outline of the topics to be discussed and the time to be devoted to each topic (signed original and eight (8) copies) by January 3, 2001. A period of 10 minutes will be allotted to each person for making comments. An agenda showing the scheduling of the speakers will be prepared after the deadline for receiving outlines has passed. Copies of the agenda will be available free of charge at the hearing.

Drafting Information

The principal author of these proposed regulations is Mary A. Berman, Office of the Associate Chief Counsel (Passthroughs and Special Industries), IRS. However, other personnel from the IRS and Treasury Department participated in their development.

List of Subjects in 26 CFR Part 20

Estate taxes, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 20 is proposed to be amended as follows:

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

Paragraph 1. The authority citation for part 20 is amended by adding an entry in numerical order to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Section 20.6081–1 also issued under 26 U.S.C. 6081(a). * * *

Par. 2. Section 20.6075–1 is revised to read as follows:

§ 20.6075–1 Returns; time for filing estate tax return.

The estate tax return required by section 6018 must be filed on or before the due date. The due date is the date on or before which the return is required to be filed in accordance with the provisions of section 6075(a) or the last day of the period covered by an extension of time as provided in § 20.6081–1. The due date, for a decedent dying after December 31, 1970, is, unless an extension of time for filing has been obtained, the day of the ninth calendar month after the decedent's death numerically corresponding to the day of the calendar month on which death occurred, except that, if there is no numerically corresponding day in such ninth month, the last day of the ninth month is the due date. For example, if the decedent dies on July 31, 2000, the estate tax return and tax payment must be made on or before April 30, 2001. When the due date falls on Saturday, Sunday, or a legal holiday, the due date for filing the return is the next succeeding day that is not Saturday, Sunday, or a legal holiday. For the definition of a legal holiday, see section 7503 and § 301.7503–1 of this chapter. As to additions to the tax in the case of failure to file the return or pay the tax within the prescribed time, see section 6651 and § 301.6651–1 of this chapter. For rules with respect to the right to elect to have the property valued as of a date or dates subsequent to the decedent's death, see section 2032 and § 20.2032–1, and section 7502 and § 301.7502–1 of this chapter. This section applies to estates of decedents dying after August 16, 1954.

Par. 3. Section 20.6081–1 is revised to read as follows:

§ 20.6081–1 Extension of time for filing the return.

(a) *Extensions of time for good cause shown.* Where it is impossible or impracticable to file a reasonably complete return within the time prescribed by statute, the person required to file the return may request an extension of time for filing. Except as provided in paragraph (b) of this section, an extension of time for filing an estate tax return is not automatic and is within the discretion of the Internal Revenue Service. Unless the person required to file the return is abroad, an extension may not be granted for more than 6 months from the filing date prescribed by statute. Requests for an extension of time for filing are made by submitting Form 4768, ''Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.'' The application must contain a full recital of the causes for the delay. It should be filed with the Internal Revenue Service office designated in the application's instructions (except as provided in § 301.6091–1(b) of this chapter for hand-carried documents). The application should, where possible, be filed sufficiently early to permit the Internal Revenue Service time to consider the matter and reply before what otherwise would be the due date of the return. Failure to file the application before the expiration of the time within which the return otherwise must be filed may indicate negligence and constitute sufficient cause for denial of the extension.

(b) *Automatic extension*—(1) *Application for extension.* Executors who are required to file Form 706, ''United States Estate (and Generation-Skipping Transfer) Tax Return,'' may request an automatic 6-month extension of time beyond the date prescribed in section 6075(a) for filing the return by submitting Form 4768, ''Application for Extension of Time To File a Return and/or Pay U. S. Estate (and Generation-Skipping Transfer) Taxes.'' An automatic extension will be allowed if—

(i) The application is filed on or before the date prescribed in section 6075(a) for filing the return;

(ii) The application is filed with the Internal Revenue Service office designated in the application's instructions (except as provided in § 301.6091–1(b) of this chapter for hand-carried documents); and

(iii) The application includes an estimate of the amount of estate and generation-skipping transfer tax liability with respect to the estate.

(2) *Executors who are abroad.* If an executor who is abroad has received an automatic 6-month extension, the executor may request an additional extension of time by following the procedures in paragraph (a) of this section.

(c) *Filing the return.* A return as complete as possible must be filed before the expiration of the extension period. The return thus filed will be the return required by section 6018(a), and any tax shown on the return will be the amount determined by the executor as the tax referred to in section 6161(a)(2), or the amount shown as the tax by the taxpayer upon the taxpayer's return referred to in section 6211(a)(1)(A). The return cannot be amended after the expiration of the extension period although supplemental information may subsequently be filed that may result in a finally determined tax different from the amount shown as the tax on the return.

(d) *Payment of the tax.* An extension of time for filing a return does not operate to extend the time for payment of the tax. See § 20.6151–1 for the time for payment of the tax, and §§ 20.6161–1 and 20.6163–1 for extensions of time for payment of the tax.

(e) *Effective date.* This section applies to estates of decedents dying after August 16, 1954, except for paragraph (b) of this section which applies to estate tax returns due after the date these regulations are published as a final regulation in the **Federal Register**.

Robert E. Wenzel,

Deputy Commissioner of Internal Revenue.

[FR Doc. 00–26942 Filed 10–19–00; 8:45 am]

BILLING CODE 4830–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 141 and 142

[WH–FRL–6888–8]

RIN 2040–AB75

National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability.

SUMMARY: The Environmental Protection Agency (EPA) proposed regulations for arsenic in drinking water on June 22, 2000 (65 FR 38888), and comments on that action were due on September 20, 2000. Since that time, EPA has received new risk information which the Agency is considering during the development of the final regulation. This document summarizes the new risk information received and analyzed by the Agency. In addition, this document makes available the cost curves used to develop the costs published in the proposal. This information does not change the overall technical approach for the proposal. EPA is requesting comments on EPA's

use of the new risk analysis and development of cost estimates for the final rule and any comments on other parts of the proposal which would change because of the information provided today.

DATES: Your comments on this document must be submitted to EPA in writing and should be postmarked or received November 20, 2000.

ADDRESSES: Send written comments to the W–99–16 NODA Arsenic Comments Clerk, Water Docket (MC–4101); U.S. Environmental Protection Agency; 1200 Pennsylvania Ave., NW., Washington, DC 20460. Comments may be hand-delivered to the Water Docket, U.S. Environmental Protection Agency; 401 M Street, SW; East Tower Basement, room EB–57; Washington, DC 20460; (202) 260–3027 between 9 a.m. and 3:30 p.m. Eastern Time, Monday through Friday. Comments may be submitted electronically, marked docket number W–99–16 NODA, to *ow-docket@epa.gov*. Please refer to the information under the headings ''Additional Information for Commenters'' and ''Availability of Docket'' in **SUPPLEMENTARY INFORMATION** for detailed information about filing and docket review.

FOR FURTHER INFORMATION CONTACT: For technical inquiries about risk and benefits discussed in this notice, contact Dr. John B. Bennett, (202) 260–0446, email: *bennett.johnb@epa.gov*, and for technical inquiries about treatment and cost discussed in this notice, contact Jeff Kempic, (202) 260–9567, email: *kempic.jeffrey@epa.gov*. For general information about this notice, contact Irene Dooley, (202) 260–9531, email: *dooley.irene@epa.gov*.

SUPPLEMENTARY INFORMATION:

Regulated Entities

A public water system, as defined in 40 CFR 141.2, provides water to the public for human consumption through pipes or other constructed conveyances, if such system has ''at least fifteen service connections or regularly serves an average of at least twenty-five individuals daily at least 60 days out of the year.'' A public water system is either a community water system (CWS) or a non-community water system (NCWS). A community water system, as defined in § 141.2, is ''a public water system which serves at least fifteen service connections used by year-round residents or regularly serves at least twenty-five year-round residents.'' The definition in § 141.2 for a non-transient, non-community water system [NTNCWS] is ''a public water system that is not a [CWS] and that regularly serves at least 25 of the same persons over 6 months per year.'' EPA has an inventory totaling over 54,000 community water systems and approximately 20,000 non-transient, non-community water systems nationwide. Entities potentially regulated by this action are community water systems and non-transient, non-community water systems. The following table provides examples of the regulated entities under this rule.

TABLE OF REGULATED ENTITIES

Category	Examples of potentially regulated entities
Industry	Privately owned/operated community water supply systems using ground water or mixed ground water and surface water.
State, Tribal, and Local Government	State, Tribal, or local government-owned/operated water supply systems using ground water or mixed ground water and surface water.
Federal Government	Federally owned/operated community water supply systems using ground water or mixed ground water and surface water.

The table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. This table lists the types of entities that EPA is now aware could potentially be regulated by this action. Other types of entities not listed in this table could also be regulated. To determine whether your facility is regulated by this action, you should carefully examine the applicability criteria in §§ 141.11 and 141.62 of the rule. If you have any questions regarding the applicability of this action to a particular entity, consult the general information person listed in the **FOR FURTHER INFORMATION CONTACT** section.

Additional Information for Commenters

Please submit an original and three copies of your comments and enclosures (including references) and identify your submission by the docket number W–99–16 NODA. To ensure that EPA can read, understand, and therefore properly respond to comments, the Agency would prefer that comments cite, where possible, the paragraph(s) or sections in the document or supporting documents to which each comment refers. Commenters should use a separate paragraph for each issue discussed. If you are submitting your comments electronically and mailing hard copies, please indicate on your electronic submission that hard copies are being sent separately. Electronic comments must be submitted as a WordPerfect 5.1, WP6.1 or WP8 file or as an ASCII file avoiding the use of special characters. Comments and data will also be accepted on disks in WP 5.1, WP6.1 or WP8, or ASCII file format. Electronic comments on this document may be filed online at many Federal Depository Libraries. Commenters who want EPA to acknowledge receipt of their comments should include a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted.

Availability of Docket

The docket for this document has been established under number W–99–16–II, and includes supporting documentation as well as printed, paper versions of electronic comments. The docket is available for inspection from 9 a.m. to 4 p.m., Monday through Friday, excluding legal holidays, at the Water Docket; EB 57; in the East Tower basement of U.S. EPA; 401 M Street, SW; Washington, DC. For access to docket materials, please call (202) 260–3027 to schedule an appointment.

Abbreviations Used

%—percent
AIC—Akaike information criterion
CWS—community water system
EB—East Tower Basement
ED_{01}—Effective dose which results in 1% excess lifetime risk
EPA—U.S. Environmental Protection Agency
et al.—et alibi, Latin for ''and others''
FR—**Federal Register**
i.e.—id est, Latin for ''that is''
kg—kilograms, 2.2 pounds
L—Liter, also referred to as lower case ''l'' in older citations
LED_{01}—a 95% lower confidence limit for ED_{01}
MDBP—microbial/disinfection by-product
MCL—maximum contaminant level

mg—milligrams—one thousandth of a gram, 1 milligram = 1,000 micrograms
microgram (μg)—One-millionth of gram (3.5×10^{-8} oz., 0.000000035 oz.)
μg/L—micrograms per liter
MOE_{01}—margin of exposure, ratio of ED_{01} to MCL
NAS—National Academy of Sciences
NODA—Notice of Data Availability
NRC—National Research Council, operating agency of NAS
NRC—National Research Council, the operating arm of NAS
O&M—operation and maintenance
ppb—Parts per billion. Also, μg/L or micrograms per liter
RIA—Regulatory Impact Analysis
U.S.—United States
VSL—Value of a statistical life
WTP—Willingness to pay

How Does This Document Relate to the June 22, 2000 Proposal?

In the Thursday, June 22, 2000, **Federal Register** the U.S. Environmental Protection Agency (EPA) proposed regulations for arsenic and clarifications to compliance and new source contaminants monitoring (65 FR 38888). This document applies only to the arsenic part of the proposal. Specifically, EPA noted that ''Further work on the risk assessment will also be done before the final rule is issued to analyze the risks of internal cancers (65 FR 38888 at 38899).'' This document discusses new risk information and EPA's subsequent risk analysis.

On page 39835 of the June 22, 2000, arsenic proposal, EPA noted that the unit cost curves are in the November 1999 ''Technologies and Costs for the Removal of Arsenic from Drinking Water.'' It has come to EPA's attention that the cost curves used to develop the costs that are included in the proposal and supporting Regulatory Impact Analysis (RIA) are in an earlier version of this document dated April 1999. This document announces the availability of the April 1999 version, with curves that more accurately reflect the analysis in the preamble and the RIA. The overall approach to cost estimation in the proposed rule and the proposed Maximum Contaminant Level (MCL) remain unchanged.

What New Risk Data Has EPA Analyzed?

In the proposal we calculated bladder cancer benefits and risks using the bladder cancer risk analysis from the 1999 National Research Council (NRC) report, *Arsenic in Drinking Water.* We also estimated lung cancer benefits in a ''What If'' analysis based on a qualitative statement about lung cancer deaths from the 1999 NRC report. At that time we noted that a peer-reviewed lung cancer risk study would probably become available before the final rule came out (65 FR 38888 at 38944). This Spring, we received a copy of a peer-reviewed article by Morales *et al.* (2000). This article presented additional analyses of bladder cancer risks as well as estimates of lung and liver cancer risks for the same Taiwanese population analyzed in the NRC report. This document makes available for public comment the Morales *et al.* (2000) information and the Agency's analysis of the bladder and lung cancer risks from that paper.

What Is in the Article by Morales et al.?

The article ''Risk of Internal Cancer from Arsenic in Drinking Water'' (Morales *et al.,* 2000) presents an assessment of the magnitude of risk for cancers of the bladder, liver and lung from exposure to arsenic in water, based on data from 42 villages in an arseniasis endemic region of Taiwan. The authors calculated excess lifetime risk estimates using several Poisson regression models and a multistage-Weibull model. (Excess lifetime risk is the additional probability of disease or death due to the given cause over the course of a lifetime.) Risk estimates are expressed as ED_{01}, the concentration at which 1% additional lifetime risk of death is incurred; LED_{01}, a 95% lower confidence limit for ED_{01}; and $MOE_{01}(50)$, the ''margin of exposure,'' or the ratio of ED_{01} to the current MCL of 50 μg/L. The authors found that risk estimates are sensitive to the choice of model, to whether a comparison population is used to define the unexposed disease mortality rates, and whether the comparison population is all of Taiwan or just an unexposed portion of the population in the study area. The authors noted that some of the factors that may affect the magnitude of risk could not be evaluated quantitatively: The ecological nature of the data, the nutritional status of the study population, and the dietary intake of arsenic. Despite all these sources of uncertainty, however, the analysis suggests that the current standard of 50 μg/L is associated with a substantial increased risk of cancer and thus is not suffciently protective of public health. (The authors state that ''the risk associated with a concentration of 50 μg/L is approximately 1 in 300, based on linear extrapolation from the point of departure. * * * This is an extremely high value.'')

The Morales *et al.* (2000) article uses several statistical models to estimate bladder, lung, and liver cancer risk from arsenic exposure. It also presents the combined risk of all three cancers. The risk assessments are based on a study from Taiwan published by Chen *et al.* (1985), with the data grouped at the village level. These data are also used for the bladder cancer risk analysis in the 1999 NRC report. Morales *et al.* (2000) examine issues of dose-response modeling for the generalized linear model. The authors identify several Poisson and multistage-Weibull models which fit the data about equally well. They prefer the Poisson models, in part because the fit of the Weibull models is more sensitive to the omission of subsets of individual villages. The models are based on mortality data from Taiwan, and model results are transferred to the United States (U.S.) without adjustment for differences in mortality-to-incidence ratios for the various illnesses. The authors adjusted the risk analyses to reflect differences in average population weight and in the consumption of drinking water between the U.S. and Taiwan (assuming a representative person in the U.S. weighs 70 kg and drinks 2 liters of water per day vs. a Taiwanese weighing 55 kg and drinking 3.5 liters). Two comparison populations, one from all of Taiwan and one from southwestern Taiwan, were used in the modeling to estimate background levels of risk.

The various model results present considerable variability in cancer risk estimates for arsenic. The authors propose several reasons for the variability, including the large variability of exposure among people within each village and use of a comparison population in the analysis. The authors also suggest that a variety of factors for which data were not available, including the dietary intake of inorganic arsenic, could influence or even confound these models. They observe that ''* * * this is an ecological study wherein only relatively simple exposure and population characteristics could be measured. It will be important to consider this and other sources of uncertainty when interpreting the results (Morales *et al.*, 2000).'' The authors conclude, however, that it seems likely that arsenic is contributing to excess cancer mortality in the U.S. based on their evaluation of combined risks of bladder, lung, and liver cancer: ''Despite the considerable variation in estimated ED_{01}, the results are sobering and indicate that current standards are not adequately protective against cancer (Morales *et al.*, 2000).''

What Models Did EPA Choose To Use for Additional Analysis?

Ten risk models were presented in Morales *et al.* (2000). Following Dr. Louise Ryan's presentation to the SAB

Drinking Water Committee (SAB, 2000), and after additional consultation with the primary authors (Morales and Ryan), EPA chose Model 1 with no comparison population for further analysis. In Model 1 the dose effect is assumed to follow a linear function and the age effect is assumed to follow a quadratic function.

EPA believes, after consultation with the authors, that the models in Morales *et al.* (2000) with a comparison population are less reliable than those without a comparison population. With no comparison population, the arsenic dose-response curve is estimated only from the study population. Models with a comparison population include mortality data from a similar population (in this case either all of Taiwan or part of southwestern Taiwan), whose exposure is assumed to be zero. Most of the models with comparison populations resulted in dose-response curves that were supralinear (higher than a linear dose-response) at low doses. The curves were forced down at zero dose because the comparison population consists of a large number of people with low risk and assumed zero exposure. EPA believes, based on discussions with the authors, that these models are less reliable, for two reasons. First, there is no basis in data on arsenic's carcinogenic mode of action to consider a supralinear curve to be biologically plausible. The conclusion of the NRC panel (NRC, 1999) was that the mode of action data led one to expect dose responses that would be either linear or less than linear at low dose. However, the NRC indicated that available data are inconclusive and ''* * * do not meet EPA's 1996 stated criteria for departure from the default assumption of linearity.'' Second, models which include comparison populations assume that the exposure of the comparison population is zero, and that the study and comparison populations are the same in all important ways except for arsenic exposure. Neither of these comparison populations assumptions may be correct: NRC (1999) notes that ''the Taiwanese-wide data do not clearly represent a population with zero exposure to arsenic in drinking water''; and Morales *et al.* (2000) agree that ''[t]here is reason to believe that the urban Taiwanese population is not a comparable population for the poor rural population used in this study.'' Moreover, because of the large amount of data in the comparison populations, the model results are relatively sensitive to assumptions about this group. For these reasons, EPA believes that the models without comparison populations are more reliable than those with them.

Of the models that did not include a comparison population, EPA believes Model 1 fits the data best, based on the Akaike information criterion (AIC), a standard criterion of model fit, applied to the Poisson models. EPA did not consider the multi-stage Weibull model for additional analysis, because of its greater sensitivity to the omission of individual villages (Morales *et al.*, 2000) and to the grouping of responses by village (NRC, 1999), as occurs in the Taiwanese data.

The Poisson regression model (Model 1), without a comparison population, gave results for lifetime excess risk of bladder cancer for males from arsenic ingestion (about 1.3 in a 1000 at an arsenic level of 50 μg/L) which were approximately the same as those risks found by the NRC (approximately 1 in a 1000 at an arsenic level of 50 μg/L). Among females, lifetime excess risk of bladder cancer is estimated to be 2.0 in 1000 at 50 μg/L. We also considered estimates using this model for excess risks for lung and liver cancer due to arsenic. The lung cancer risk estimates, which were comparable to the bladder cancer risk estimates, were of special interest to the Agency, as the NRC report did not provide a statistical analysis of these risks.

However, EPA did not further consider the Taiwan liver cancer estimates for U.S. liver cancer risks. Angiosarcoma liver cancer (cancer in the liver's blood vessels) has been linked to arsenic exposure in Germany (Roth, 1957, as reported in Smith *et al.*, 1992), Chile (Zaldivar *et al.*, 1981, as reported in Smith *et al.*, 1992), and the U.S. (Falk *et al.*, 1981, as reported in Smith *et al.*, 1992). However, most liver cancers in Taiwan were hepatocellular (*i.e.*, liver cell) carcinomas linked to hepatitis (Chen *et al.*, 1985 & 1986), rather than angiosarcoma cancer, and are extremely rare in the U.S.

How Will the New Data Affect EPA's Risk Analysis?

This section describes EPA's risk analysis in the June 22, 2000, proposed arsenic rulemaking, then extends the analysis to incorporate new information from Morales *et al.* (2000).

The June 22, 2000, proposed arsenic rulemaking contained an analysis of the excess exposed population risks associated with arsenic consumption for bladder cancer. This analysis was based on the 1999 National Research Council (NRC) report, in which the NRC examined risk distributions for male bladder cancer in 42 villages in Taiwan. This population was exposed to drinking water with arsenic ranging from 10 to 934 μg/L; arsenic exposure estimates were grouped by village. To monetize bladder cancer benefits, EPA calculated the number of cases potentially avoided, based on the NRC bladder cancer risk analyses, for populations exposed to MCL options of 3 μg/L, 5 μg/L, 10 μg/L, and 20 μg/L. The proposal's analytic approach included five components. First, EPA used data from the recent EPA water consumption study (US EPA, 2000a). Second, we used Monte Carlo simulations to develop a distribution of ''relative exposure factors,'' which account for individual variations in risk due to water consumption and body weight. Third, arsenic occurrence estimates (US EPA, 2000c) were used to identify the population exposed to levels above 3 μg/L. We assumed drinking water exposure reflected treatment to 80% of the MCL level, because water systems tend to treat below the MCL level in order to provide a margin of safety. Fourth, EPA chose four NRC risk distributions (NRC, 1999, from Tables 10–11 and 10–12) for the analysis, that used Poisson-model derived risk estimates, with and without baseline comparison data. Fifth, EPA used Monte Carlo simulations to develop estimates of the risks faced by the exposed population, using the relative exposure factors, occurrence, and the NRC risk distributions. These components of the analysis are described in the proposed rulemaking (US EPA, 2000d, section X.A). EPA also monetized the potential benefits of avoided lung cancer, using a ''What If'' analysis based on statements in the NRC report.

Table 1 shows the mean and 90th percentile bladder cancer incidence risks summarized from Tables X–4A, X–4B, X–2A, and X–2B in the June 22, 2000, arsenic proposed rulemaking (65 FR 38888), after treatment, for the U.S. population currently exposed at or above 3 μg/L, 5 μg/L, 10 μg/L, and 20 μg/L. These risk distributions are based on bladder cancer mortality data in Taiwan, in a section of Taiwan where arsenic concentrations in the water are very high by comparison to those in the U.S. It is also an area of low incomes (NRC, 1999, pg. 292) and poor diet (NRC, 1999, pg. 295), and the availability and quality of medical care is not of high quality, by U.S. standards. In its estimate of bladder cancer risk, the Agency assumed that within the Taiwanese study area at the time of the study, the risk of contracting bladder cancer was relatively close to the risk of dying from bladder cancer (that is, that

the bladder cancer incidence rate was equal to the bladder cancer mortality rate). Survival rates for bladder cancer in the U.S. have been improving from 1973 to 1996 (*i.e.*, U.S. bladder cancer mortality rates decreased overall 24% to 26%). Recent bladder cancer survival rates in developing countries range from 23.5% to 66.1%, and are currently 45% for bladder cancer in Taiwan, as discussed in the proposed rulemaking (65 FR 38888 at 38942). At most, the Agency concluded that bladder cancer incidence could be no more than 2 times bladder cancer mortality; and that an 80% mortality rate would be plausible. The benefits analysis included estimates using an assumed mortality rate ranging from 80% to 100%.

TABLE 1.—BLADDER CANCER RISKS FROM THE JUNE 22, 2000 PROPOSAL: MEAN (FROM TABLES X–4A AND X–4B) AND 90TH PERCENTILE (FROM TABLES X–2A AND X–2B) LIFETIME INCIDENCE RISKS,[1] FOR U.S. POPULATIONS EXPOSED AT OR ABOVE MCL OPTIONS, AFTER TREATMENT[2] (LOWER BOUNDS: LOW NRC RISK, CWS WATER CONSUMPTION; UPPER BOUNDS: HIGH NRC RISK, TOTAL WATER CONSUMPTION)

MCL μg/L	Mean exposed population risk	90th percentile exposed population risk
3	$2.1-4.5\times10^{-5}$	$4-7\times10^{-5}$
5	$3.6-7.5\times10^{-5}$	$6-12\times10^{-5}$
10	$5.5-11.4\times10^{-5}$	$1-2\times10^{-4}$
20	$6.9-13.9\times10^{-5}$	$1.4-2.8\times10^{-4}$

[1] Actual risks could be lower, given the various uncertainties discussed, or higher, as these estimates assume a 100% mortality rate.
[2] The risk analysis assumed exposure at 80% of the MCL level, because water systems tend to treat below the MCL level in order to provide a margin of safety.

The Morales *et al.* (2000) article provided a new analysis of bladder cancer risk. Although the data used were the same as used by the NRC to analyze bladder cancer risk in their 1999 publication, Morales *et al.* (2000) consider more dose-response models and evaluate how well they fit the Taiwanese data. Therefore the Agency decided to examine the implications of the new bladder cancer risk assessment from Morales *et al.* (2000), as well as the lung cancer risk assessment. Using the same analytical approach as in the arsenic proposed rule (with Monte Carlo simulations combining relative exposure factors, occurrence estimates, and risk distributions), the Agency recalculated the mean bladder cancer risks for U.S. populations, based on the risk estimates from Morales *et al.* (2000), derived from Model 1 with no comparison population. The results are shown in Table 2, along with the bladder cancer risks remaining, after treatment, for the 90th percentile U.S. population.

TABLE 2.—BLADDER CANCER: MEAN AND 90TH PERCENTILE LIFETIME INCIDENCE RISKS,[1] FOR U.S. POPULATIONS EXPOSED AT OR ABOVE MCL OPTIONS, AFTER TREATMENT[2] (MORALES RISK, LOW WATER CONSUMPTION FOR LOWER BOUND, HIGH WATER CONSUMPTION FOR UPPER BOUND)

MCL μg/L	Mean exposed population risk	90th percentile population risk
3	$4.9-6.0\times10^{-5}$	$1-1.2\times10^{-4}$
5	$8.4-10.2\times10^{-5}$	$1.8-2.0\times10^{-4}$
10	$1.2-1.47\times10^{-4}$	$2.6-3.1\times10^{-4}$
20	$1.55-1.89\times10^{-4}$	$3.5-4.1\times10^{-4}$

[1] Actual risks could be lower, given the various uncertainties discussed, or higher, as these estimates assume a 100% mortality rate.
[2] The risk analysis assumed exposure at 80% of the MCL level, because water systems tend to treat below the MCL level in order to provide a margin of safety.

The Agency also estimated the mean and 90th percentile lung cancer risks for U.S. populations, using the same analytical approach and the risk estimates from Morales *et al.* (2000), derived from Model 1 with no comparison population. The results are shown in Table 3.

TABLE 3.—LUNG CANCER: MEAN LIFETIME INCIDENCE RISKS,[1] FOR U.S. POPULATIONS EXPOSED AT OR ABOVE MCL OPTIONS, AFTER TREATMENT[2] (MORALES RISK, LOW WATER CONSUMPTION FOR LOWER BOUND, HIGH WATER CONSUMPTION FOR UPPER BOUND)

MCL μg/L	Mean exposed population risk	90th percentile population risk
3	$4.9-6.1\times10^{-5}$	$1.0-1.2\times10^{-4}$
5	$8.2-10.5\times10^{-5}$	$1.7-2.1\times10^{-4}$
10	$1.21-1.46\times10^{-4}$	$2.7-3.1\times10^{-4}$
20	$1.52-1.87\times10^{-4}$	$3.4-4.3\times10^{-4}$

[1] Actual risks could be lower, given the various uncertainties discussed, or higher, as these estimates assume a 100% mortality rate.
[2] The risk analysis assumed exposure at 80% of the MCL level, because water systems tend to treat below the MCL level in order to provide a margin of safety.

EPA believes, based upon this most recent risk information, that the combined risk of excess cases of lung and bladder cancer attributable to arsenic in drinking water could be at least twice that of bladder cancer alone. However, EPA will need to conduct additional analyses of this risk information, together with additional analyses of the various uncertainties associated with the underlying data, and of comments submitted in response to the proposed rule, to develop its best estimate of the overall risk in support of a final rulemaking.

How Did EPA Analyze the Lower Bound of its Risk Estimates?

The Agency performed a sensitivity analysis of the lower bound risk estimates, considering the effect on risk estimates of exposure to arsenic through water used in preparing food in Taiwan. The 1988 EPA ''Special Report on Ingested Inorganic Arsenic'' contained the following discussion:

> For the studied population, rice and sweet potatoes were the main staple and might account for as much as 80% of food intake per meal. For the purpose of discussion we will assume that a man in the study population ate one cup of dry rice and two pounds of potatoes per day and that the amount of water required to cook the rice and potatoes was about 1 L. Under this assumption, the risk calculated before is overestimated by about 30% (1 L/ 3.5 L). This calculation considers only the water used for cooking; the arsenic content in the rice and potatoes that might have been absorbed from soil arsenic is not considered because of the lack of information.

The Taiwanese staple foods were dried sweet potatoes and rice (Wu *et al.,* 1989). Both the 1988 EPA report and the 1999 NRC report assumed that an average Taiwanese male weighed 55 kg and drank 3.5 liters of water daily, and that an average Taiwanese female weighed 50 kg and drank 2 L of water daily. Using these assumptions, along with an assumption that Taiwanese men and women ate one cup of dry rice and two pounds of sweet potatoes a day, the Agency re-estimated risks for bladder and lung cancer, using one additional liter water consumption for food preparation (*i.e.,* the water absorbed by hydration during cooking). The food consumed in Taiwan contains more arsenic than in the U.S.: on average, about 50 μg/day in Taiwan, versus about 10 μg/day in the U.S. (NRC, 1999, pp. 50–51). Thus our analysis may still overstate the risk to the U.S. population, when the total consumption of inorganic arsenic (from food preparation and drinking water) is considered. Results of the EPA analysis considering water used in cooking are shown in Table 4, using the NRC bladder cancer risk, the Morales *et al.* (2000) bladder cancer risk, and the Morales *et al.* (2000) lung cancer risk estimates utilized earlier in this Document. Table 5 shows the cancer risks remaining, after treatment to 80% MCL options, for high percentile U.S. populations, providing a sensitivity analysis for the lower bound risk taking into account the arsenic intake from water used in cooking dried foods.

TABLE 4.—SENSITIVITY ANALYSIS OF MEAN LOWER BOUND INCIDENCE RISK ESTIMATES,[1,2] RISKS ADJUSTED FOR WATER USED IN COOKING (CWS WATER CONSUMPTION DATA)

MCL (μg/L)	Bladder (NRC)	Bladder (Morales)	Lung (Morales)
3	1.7×10^{-5}	3.5×10^{-5}	3.6×10^{-5}
5	2.9×10^{-5}	5.7×10^{-5}	5.7×10^{-5}
10	4.1×10^{-5}	8.4×10^{-5}	8.4×10^{-5}
20	5.1×10^{-5}	1.01×10^{-5}	1.06×10^{-5}

[1] Risks are adjusted under assumption that Taiwanese males and females consume one additional liter of water in rehydrating dried rice and sweet potatoes.
[2] The bladder cancer risks presented in this table provide ''best'' estimates. Actual risks could be lower, given the various uncertainties discussed, or higher, as these estimates assume a 100% mortality rate.

TABLE 5.—SENSITIVITY ANALYSIS OF 90TH PERCENTILE LOWER BOUND INCIDENCE RISK ESTIMATES,[1, 2] RISKS ADJUSTED FOR WATER USED IN COOKING (CWS WATER CONSUMPTION DATA)

MCL (μg/L)	Bladder (NRC)	Bladder (Morales)	Lung (Morales)
3	3.5×10^{-5}	7.5×10^{-5}	7.2×10^{-5}
5	5.9×10^{-5}	1.2×10^{-4}	1.2×10^{-4}
10	9.0×10^{-5}	1.8×10^{-4}	1.8×10^{-4}
20	1.1×10^{-4}	2.3×10^{-4}	2.4×10^{-4}

[1] Risks are adjusted under assumption that Taiwanese males and females consume one additional liter of water in rehydrating dried rice and sweet potatoes.

[2] The bladder cancer risks presented in this table provide ''best'' estimates. Actual risks could be lower, given the various uncertainties discussed, or higher, as these estimates assume a 100% mortality rate.

How Will EPA Evaluate Benefits in the Final Rule?

The benefits of a regulatory option depend primarily on the number of cases of an illness avoided due to the reduction in risk resulting from the implementation of the option. For the arsenic proposed rule and following established Agency practices, EPA estimated the number of cases of bladder cancer avoided using mean exposed population incidence risk estimates at various MCL levels (these mean exposed population incidence risks are shown in Table 1). We converted lifetime risk estimates to annual risk factors, and applied these to the exposed population to determine the number of cases avoided (both fatal and non-fatal). We adjusted the upper bound bladder cancer number of cases estimates by assuming an 80% mortality rate in Taiwan, which is a plausible mortality rate for the area of Taiwan during the Chen study. The lower bound estimates assumed a 100% mortality rate from bladder cancer in Taiwan. For the benefits assessment, EPA used U.S. mortality information to divide the number of cases into fatal and non-fatal cases avoided. Benefits are assumed to begin to accrue on the effective date of the arsenic rule (65 FR 38888 at 38946).

The avoided cases of fatal bladder cancer are valued by what is known as the ''value of a statistical life'' (VSL), currently estimated at $6.1 million (in 1999 dollars).[1] VSL does not refer to the value of an identifiable life, but instead to the value of small reductions in mortality risks in a population. We used the central tendency estimate of $604,000 (1999 dollars)[2] of the willingness to pay (WTP) to avoid a case of chronic bronchitis to monetize the benefits of avoiding non-fatal bladder cancers (Viscusi *et al.,* 1991). WTP data for avoiding chronic bronchitis has been used before by EPA (the microbial/disinfection by-product (MDBP) rulemaking) as a surrogate for the WTP to avoid non-fatal bladder cancer. EPA summed the monetized benefits for fatal and non-fatal bladder cancer cases avoided to obtain total monetized benefits for avoided bladder cancer cases (shown in Tables X–7 and XI–1 of the proposed rule preamble, in 1999 dollars).

In the arsenic proposed rule, EPA also estimated the number of lung cancer cases avoided, for the various options considered, using a ''What If'' analysis, and monetized these cases using the same process that was used to monetize the benefits of avoided bladder cancer cases. The ''What If'' analysis examined possible benefits from avoided lung cancer cases if the number of those cases in the U.S. which were fatal in outcome was 2–5 times the number of fatal bladder cancer cases (the implicit risk for lung cancer ranged from about half to about twice that of the risk for bladder cancer).

EPA plans to use the benefits evaluation process described in this section for the final rule, using the data and analysis of the bladder and lung cancer risks described in this document instead of the ''What If'' lung cancer analysis included in the proposal. These more definitive benefits estimates will be derived from the new risk calculations that will accompany the final rule (based upon further consideration of additive risk analyses) and other pertinent information. Background information on the economic concepts that provide the foundation for benefits valuation, and the methods that are typically used by economists to monetize the value of risk reductions, such as wage-risk, cost of illness, and contingent valuation studies are provided in the arsenic RIA.

EPA Benefits Summary and Conclusions

Morales *et al.* (2000) assess the risks of lung and bladder cancer associated with arsenic consumption in water, based on data from Taiwan, using several statistical models. Although the data used were the same as used by the NRC (1999). Morales *et al.* consider more dose-response models, providing a more exhaustive treatment of model fit. They also discuss additional factors, for which data were not available, which might influence or confound the analysis. Dose-response risk estimate for both bladder and lung cancer, derived from the best-fitting model, were analyzed further by the Agency. The Agency calculated new risk estimates for the U.S. exposed population, for the various MICL options under consideration. The resulting risk estimates for bladder cancer are higher than those examined in detail in the proposal, and the new lung cancer risks are approximately equal to the new bladder cancer risks. As noted earlier, EPA believes that the combined risk of excess cases from lung and bladder cancer could be at least twice that of bladder cancer alone and will be refining its overall risk estimate in support of the final rule based on a number of factors, with a particular focus on the additive risks of lung and bladder cancer. Monetized benefits from avoided cases overall are expected to fall within the ranges presented in the June 22 Proposed Rule, because of the implicit assumptions of lung cancer risk in the ''What If'' analysis. However, the lung cancer monetized benefits would be more certain, and removed from the ''What If'' categorization. In addition, the Agency performed a lower bound sensitivity analysis of risk estimates given a variation in the assumption about water used for cooking in Taiwan.

What Technologies and Costs Document Is Being Made Available?

In the June 22, 2000, **Federal Register**, the EPA presented national cost

[1] The June 20, 2000, proposal (65 FR 38888) cited the central tendency estimate of the VSL as $5.8 million in 1997 $ in the preamble text. However, the analyses presented in the proposal's tables reflect 1999 $ values, as noted.

[2] The June 20, 2000, proposal (65 FR 38888) cited the central tendency estimate of the WTP as $536,000 in 1997 $ in the preamble text. However, the analyses presented in the proposal's tables reflect 1999 $ values, as noted.

estimates of the proposed arsenic rule (65 FR 38888). In several tables [3] in the preamble EPA presented annualized national cost estimates for four MCL options (3, 5, 10 and 20 μL). The methodology and data used to develop these estimates are described in the Regulatory Impact Analysis (RIA) (EPA 2000b). This document is making available for public comment additional information on the costs of treatment technologies EPA: ''Technologies and Costs for the Removal of Arsenic From Drinking Water,'' April 1999, which has been placed in the docket, and will be made available on EPA's website. EPA used this April 1999 document to develop the national estimates presented in the proposed rule.

The RIA describes the model (SafeWaterXL) that was used by EPA to estimate national costs. The model uses data on arsenic occurrence, compliance decision trees, unit treatment technology train costs and other relevant data to generate national cost estimates. All of these inputs are described in the RIA. The treatment trains that were used in the national cost estimation are given in Exhibit 6–1 of the RIA. The RIA provides information on treatment technology costs by system size in Exhibit 6–2. The exhibit has cost estimates on treatment capital, treatment operation and maintenance (O&M), waste disposal capital, and waste disposal O&M costs for each treatment train.

Today's document is advising the public about the availability in the docket of ''Technologies and Costs for the Removal of Arsenic from Drinking Water,'' April 1999, which provides the unit cost curves (regressions) that were used to generate Exhibit 6–1 of the RIA. The April 1999 technology and cost document contains curves for several removal efficiencies, including the ones corresponding to the removal efficiencies identified in Exhibit 6–1 of the RIA.

The unit cost treatment curves for each technology can be found in the April 1999 technology and cost document. The unit cost waste disposal curves can be derived from Table 4–1, ''Summary of Residuals Characteristics,'' in the technology and cost document. Those interested in reproducing the waste disposal curves should consult the ''Small Water System Byproducts Treatment and Disposal Cost'' (EPA 1993a) document and the ''Water System Byproducts Treatment and Disposal Cost'' (EPA 1993b) document. The former is for small water systems, and the latter is for larger ones. An electronic copy of the treatment technology and waste disposal equations used in the development of the RIA can also be found in the docket.

Why Does the Docket Have a Copy of a Newer Version of the Technologies & Costs for Comment?

The EPA has continued to refine and update cost estimates of the treatment technologies discussed in the proposed rule. In addition, EPA is following the development of emerging technologies that would be relevant for arsenic removal. An update of the April 1999 document was inadvertently included in the docket: EPA, ''Technologies and Costs for Removal of Arsenic from Drinking Water,'' November 1999. This was not, however, the version used to develop the RIA. The RIA costs were developed using the earlier April 1999 version, which is being provided with this document. This data and information is being made available to those interested in reproducing our national cost estimates.

The differences between the cost curves in the April and November drafts are attributable to the different design criteria assumptions made when running the unit cost models. Three unit cost models were used: ''Very Small Systems'' (for systems between 0.015 to 0.100 mgd), ''Water model'' (for systems between 0.27 and 1.00 mgd), and ''W/W Cost'' (for systems between 10 to 200 mgd). The design criteria assumptions are described prior to the presentation of the cost curves in each document. For example, the design criteria assumptions for coagulation assisted microfiltration are listed on page 3–47 of the November 1999 document and on page 3–60 of the April 1999 document. EPA will continue to refine the cost curves and other cost of compliance information and data based on comments submitted on the proposal.

How Will EPA Use the November 1999 Cost Document?

EPA will carefully consider all comments on the proposed rule and will develop new national cost estimates for the final rule, along with a new supporting treatment technology and cost document, which would update both the April 1999 and November 1999 versions of the treatment technology and cost document. The new version that will be developed will include cost estimates for emerging technologies, and where necessary, updates to the treatment technology cost curves already developed. EPA may also develop an updated decision tree to refine and improve the cost estimates, based on comments received on the proposal. Changes in these inputs to EPA's models for determining the cost of compliance and any changes to the national cost estimates generated by the model will be presented in the final rule.

References

Chen, C. J., Y. C. Chuang, T. M. Lin and H. Y. Wu. 1985. Malignant neoplasms among residents of a Blackfoot disease endemic area in Taiwan: High arsenic well water and cancers. ''Cancer Research'' 45:5895–5899.

Chen, C. J., Y. C. Chuang, T. M. Lin and H. Y. Wu. 1986. A retrospective study on malignant neoplasms of bladder, lung and liver in Blackfoot disease endemic area in Taiwan. ''British Journal of Cancer'' 53:399–405.

Morales, K.H., L. Ryan, K.G. Brown, T–L Kuo, M–M Wu, and C.J. Chen. 2000. Risk of Internal Cancers from Arsenic in Drinking Water. ''Environmental Health Perspectives'' 108:655–661.

National Research Council. 1999. ''Arsenic in Drinking Water.'' Washington, DC. National Academy Press.

Smith, A.H., C. Hopenhayn-Rich, M.N. Bates, H.M. Goeden, I. Hertz-Picciotto, H.M. Duggan, R. Wood, M.J. Kosnett, and M.T. Smith. 1992. Cancer risks from arsenic in drinking water. ''Environmental Health Perspectives'' 97:259–267.

US EPA. 1988. ''Special Report on Ingested Inorganic Arsenic: Skin Cancer; Nutritional Essentiality.'' Risk Assessment Forum. EPA/625/3–87/013. 124 pp. July 1988.

US EPA. 1993a. Small Water System Byproducts Treatment and Disposal Cost Document. April 1993.

US EPA. 1993b. Water System Byproducts Treatment and Disposal Cost Document. April 1993.

US EPA. 1999a. Technologies and Costs for Removal of Arsenic From Drinking Water. EPA–815–R–00–012. Prepared by International Consultants, Inc. and Malcolm Pirnie, Inc. under contract to EPA OGWDW. November 1999.

US EPA. 1999b. Technologies and Costs for the Removal of Arsenic From Drinking Water. Prepared by International

[3] Table VIII–3. Annual Costs of Treatment Trains (Per Household); Table IX–11. National Annual Treatment Costs; Table IX–12. Total Annual Costs Per Household; Table IX–13. Incremental National Annual Costs; Table IX–14. Incremental Annual Costs Per Household; Table X–7. Estimated Costs and Benefits From Reducing Arsenic in Drinking Water; Table XI–1. Estimated Costs and Benefits From Reducing Arsenic in Drinking Water; Table XIII–3. Estimated Costs and Benefits From Reducing Arsenic in Drinking Water; Table XIII–4. Estimated Annualized National Costs of Reducing Arsenic Exposures; Table XIII–5. Estimated Annual Costs Per Household and (Number of Households Affected); Table XIII–6. Summary of the Total Annual National Costs of Compliance with the Proposed Arsenic Rule Across MCL Options; Table XIII–7. Estimates of the Annual Incremental Risk Reduction, Benefits, and Costs of Reducing Arsenic in Drinking Water; Table XIV–2. Average Annual Cost per CWS by Ownership; Table XIV–3. Average Compliance Costs per Household for CWSs Exceeding MCLs; and Table XIV–4. Average Compliance Costs per Household for CWSs Exceeding MCLs as a Percent of Median Household Income.

Consultants, Inc. and Malcolm Pirnie, Inc. under contract 68–C–C6–0039 with EPA OGWDW. April 1999.
US EPA. 2000a. ''Estimated Per Capita Water Ingestion in the United States: Based on Data Collected by the United States Department of Agriculture's (USDA) 1994–1996 Continuing Survey of Food Intakes by Individuals.'' Office of Water, Office of Standards and Technology. EPA–822–00–008. April 2000.
US EPA. 2000b. Proposed Arsenic in Drinking Water Rule: Regulatory Impact Analysis (RIA). Prepared by Abt Associates, Inc. under contract to EPA OGWDW. EPA 815–R–013. June 2000.
US EPA. 2000c. ''Arsenic Occurrence in Public Drinking Water Supplies.'' Public Comment Draft. Office of Water, Washington DC. EPA 815–D–00–001. May 2000.
US EPA. 2000d. National Primary Drinking Water Regulations; Arsenic and Clarifications to Compliance and New Source Contaminants Monitoring; Proposed Rule. **Federal Register**. Vol. 65, No. 121, p. 38888. June 22, 2000.
Viscusi, W.K., W.A. Magat, and J. Huber. 1991. Pricing Environmental Health Risks: Survey Assessments of Risk-Risk and Risk-Dollar Trade-Offs for Chronic Bronchitis. ''Journal of Environmental Economics and Management.'' 21:32–51.
Wu, M.M., T.L. Kuo, Y.H. Hwant, and C.J. Chen. 1989. Dose-response relation between arsenic concentration in well water and mortality from cancers and vascular diseases. American Journal of Epidemiology. 130:1123–1132.

Authority: 42 U.S.C. 300f, 300g–1, 300g–2, 300g–3, 300g–4, 300g–5, 300g–6, 300j–4, 300j–9, and 300j–11.

Dated: October 13, 2000.

J. Charles Fox,

Assistant Administrator for Water.

[FR Doc. 00–27034 Filed 10–19–00; 8:45 am]

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of Inspector General

42 CFR Parts 1001, 1003, 1005 and 1008

RIN 0991–AB09

Medicare and State Health Care Programs: Fraud and Abuse; Revisions and Technical Corrections

AGENCY: Office of Inspector General (OIG), HHS.

ACTION: Proposed rule.

SUMMARY: This proposed rule sets forth several revisions and technical corrections to the OIG regulations. This rule proposes revisions or clarifications to the definition of the term ''item or service'', to the reinstatement procedures relating to exclusions resulting from a default on health education or scholarship obligations, and to the limitations period applicable to exclusions. In addition, this rule would make a number of minor technical corrections to the current regulations, and serves to clarify various issues and inadvertent errors appearing in the OIG's existing regulatory authorities in order to achieve greater clarity and consistency.

DATES: To assure consideration, public comments must be mailed and delivered to the address provided below by no later than 5 p.m. November 20, 2000.

ADDRESSES: Please mail or deliver your written comments to the following address: Department of Health and Human Services, Office of Inspector General, Room 5246, Attention: OIG–62–P, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT: Joel J. Schaer, Office of Counsel to the Inspector General, (202) 619–0089.

SUPPLEMENTARY INFORMATION: Consistent with existing regulatory authority, the OIG is proposing the following revisions to 42 CFR chapter V, many of which are technical in nature:

• *Limitations Period for Exclusions; § 1001.1 (Scope of Exclusions).*

The purpose of an OIG program exclusion is to protect Medicare, Medicaid and all other Federal health care programs from fraud and abuse, and to protect beneficiaries of those programs from untrustworthy providers. Questions have been raised as to whether a limitations period is applicable to the imposition of OIG program exclusions. The OIG frequently determines that conduct which occurred several years in the past does not warrant an exclusion (other than an exclusion that is mandated by statute). However, there is no statute of limitations specified for exclusions in the Social Security Act (the Act).[1] Moreover, program exclusions are remedial in nature,[2] and it is the OIG's position that if we determine that an exclusion is necessary to protect the programs and beneficiaries from untrustworthy individuals and entities, we are authorized to impose such an exclusion without being subject to a limitations period. To eliminate any confusion on this point, we are clarifying § 1001.1 to indicate that there is no time limitation on the imposition of a program exclusion.

Thus, for example, when a program exclusion imposed under section 1128(b)(7) of the Act is based on violations of another statute, such as the civil money penalty (CMP) statute (section 1128A of the Act), which has a 6 year statute of limitations, the program exclusion is not similarly time limited.

• *Amendment to § 1001.101(c) (Basis for Liability)*

In introductory paragraph (c) of § 1001.101, we propose to add the word ''financial'' before the word ''misconduct.'' This revision would be consistent with the statutory language set forth in section 1128(a)(3) of the Act which specifically uses the word ''financial'' to describe the felony under which the OIG will exclude an individual or entity. The revision to this paragraph is intended to mirror the statutory language.

• *Revisions to §§ 1001.102 and 1001.201 With Respect to Financial Loss and the Threshold Amount*

Currently, §§ 1001.102 and 1001.201 set forth an aggravating factor for lengthening the period of exclusion when an individual's conviction, or similar acts, resulted in financial loss of $1,500 or more. First, we are proposing to revise §§ 1001.102(b)(1) and 1001.201(b)(2)(i) to increase the financial loss considered to be an aggravating factor from $1,500 to $5,000. We believe that this revision would more properly reflect the current economics of health care fraud in the programs and would establish a more reasonable threshold amount as an aggravating factor to be considered as a basis for lengthening a period of exclusion.

In addition, we are proposing to clarify §§ 1001.102(b)(1) and 1001.201(b)(2)(i) to reflect as an aggravating factor both the actual and intended loss to the programs associated with this conduct. We believe that any loss—not just the actual, out-of-pocket loss—that is designed to cause harm to the programs should be taken into consideration. For example, in a situation where an individual intends to commit damage to the programs by filing false cost reports, but whose plans are detected and prevented from reaching fruition by an intermediary who intercepts the damage before it can occur, we believe the intended loss, and not just any actual loss, should also be taken in consideration as a valid measure of the individual's culpability. Accordingly, we would also clarify §§ 1001.102(b)(1) and 1001.201(b)(2)(i)

[1] See section 1128 of the Act; 42 U.S.C. 1320a–7.

[2] See *Manocchio* v. *Kusserow* (961 F.2d 1539 (11th Cir. 1992)), which held that exclusions are remedial.

to specifically indicate that any intended loss to the programs would be considered as an aggravating factor in assessing an individual's behavior and trustworthiness. Parallel changes to §§ 1001.102(c)(1) and 1001.201(b)(3)(i) would also be made.

In addition,

• *Clarification of Paragraph (b)(9) in § 1001.102 (Length of Exclusion)*

Section 1001.102 addresses the length of an exclusion, and paragraph (b) of that section sets forth various factors that may be considered to be aggravating and a basis for lengthening the period of exclusion. We propose to revise paragraph (b)(9) by adding the word ''even'' to indicate that one factor we would consider is ''[w]hether the individual or entity was convicted of other offenses besides those which formed the basis for the exclusion, or has been the subject of any other adverse action by a Federal, State or local government agency or board, *even* if the adverse action is based on the same set of circumstances that serves as the basis for the imposition of the exclusion'' (underlining added). The inclusion of the word ''even'' was inadvertently omitted in the revisions to § 1001.102(b) that were set forth in the OIG final rulemaking issued on September 2, 1998 (63 FR 46676), addressing revised OIG exclusion authorities resulting from Public Law 104–191, and a subsequent revision set forth in final rulemaking issued on July 22, 1999 (64 FR 39420), addressing revised OIG sanction authorities resulting from Public Law 105–33.

• *Revisions to §§ 1001.102(c)(1), 1001.951 and 1001.952 To Encompass Acts Occurring With Respect to ''All Other Federal Health Care Programs''*

Section 231 of Public Law 104–191, the Health Insurance Portability and Accountability Act (HIPAA) of 1996, amended the CMP and criminal provisions in section 1128A and 1128B of the Act (42 U.S.C. 1320a–7a and 1320a–7b) to encompass acts occurring with respect to a ''Federal health care program,'' as defined in section 1128B(f) of the Act. Section 4331(c) of Public Law 105–33, the Balanced Budget Act (BBA) of 1997, further amended section 1128(a) and (b) of the Act to extend the scope of an OIG exclusion beyond the Medicare and State health care programs to all other Federal health care programs and to enable the OIG directly to impose exclusions from all other Federal health care programs. In the final regulations addressing OIG exclusion authorities resulting from HIPAA (63 FR 46676) and in the final rulemaking addressing revised OIG sanction authorities resulting from the BBA (64 FR 39420), while we made several revisions to part 1001 to include the term ''Federal health care program,'' conforming revisions were not made in §§ 1001.102(c)(1), 1001.951 and 1001.952. We propose to amend these sections to accurately reflect this expanded authority.

• *Additional Technical Revisions to § 1001.952*

On November 19, 1999, we published a final rule setting forth clarifications to the initial OIG safe harbor provisions in 1991 and establishing additional safe harbor provisions under the anti-kickback statute (64 FR 63518). In that final rule, certain minor technical errors appeared in the regulations text when published, which we are proposing to clarify or correct at this time. Specifically, in paragraph (h)(1)(ii), we are proposing to substitute the phrase ''Department or a State health care program,'' with the phrase ''Department or health agency,'' to be consistent with similar context language used in this same paragraph. (The italics appearing in introductory paragraph (h)(1) in the November 19, 1999 final rule would also be removed.) In addition, in paragraph (h)(2) (ii)(A), the current introductory phrase reads: ''[W]here a discount is required to be reported to Medicare or a State health care program under paragraph (h)(1) of this section, * * *'' We are proposing to clarify this discussion by amending this introductory statement to read as ''[W]here the value of the discount is known at the time of sale, * * *'' This would be consistent with the current introductory language appearing in paragraph (h)(2)(ii)(B) of § 1001.952. We are also clarifying the definition of the term ''rebate'' in § 1001.952(h)(4) to make clear that a rebate is a price reduction after the time of sale. We are further proposing to clarify the language in paragraph (h)(5)(ii) by including an example as to what is meant by the phrase ''same methodology'' as used in this discussion. The example is consistent with the November 19, 1999 final rule preamble discussion. The additional language would indicate that the ''same methodology'' would reflect, as an example, the same DRG, prospective payment or per diem payment, but would not include fee schedules. For clarification purposes, we are also proposing to include a comma after the word ''reflected'' in this same paragraph to make clear that the phrase ''where appropriate and as appropriate'' modifies both the terms ''disclosed'' and ''reflected.''

In addition, we are also proposing to clarify, gramatically, the introductory language for paragraph (r) to more clearly state the conditions under which ''remuneration'' does not include a payment that is a return on an investment interest for ambulatory surgical centers. Also, in paragraph (r)(2)(ii), we are proposing to substitute the word ''physician's'' for the word ''surgeon's,'' which was inadvertently set forth in the November 19, 1999 final regulations. As corrected, the paragraph would read as: ''(ii) At least one-third of each physician investor's medical practice income from all sources for the previous fiscal year or previous 12-month period must be derived from the physician's performance of procedures (as defined in this paragraph).''

With regard to § 1001.952, we are only requesting comments on the changes set forth specifically in this proposed rule. We expect to address other substantive revisions to aspects of the November 19, 1999 new safe harbors, as appropriate, through a separate clarifying proposed rule.

• *Revision to § 1001.1501 (Default of Health Education Loan or Scholarship Obligations)*

Under section 1128(b)(14) of the Act, and § 1001.1501 of the implementing regulations, the OIG may exclude any individual that the Public Health Service (PHS) determines is in default on repayment of scholarship obligations or loans made in connection with health profession education. The current regulations provide that an individual may be excluded until such time as PHS notifies the OIG that the default has been cured or the obligations have been resolved to the PHS's satisfaction. This regulatory language has resulted in some uncertainty as to exactly when a determination may be made that a default is cured or that the obligations have been adequately resolved.

We propose to revise § 1001.1501(b) to make it clear that once an individual is excluded, he or she will be eligible for reinstatement only (1) after the debt is repaid by the individual or (2) when there is no longer an outstanding debt as determined by the PHS (*e.g.,* the debt has been written off). We specifically propose to revise paragraph (b) to indicate that an individual will be excluded until such time as PHS notifies the OIG that the individual's debt has been paid or resolved. Upon receipt of notice from PHS, the OIG will, in turn, inform the individual of his or her right to apply for reinstatement. In addition, we are amending this

paragraph to specifically state that an individual who has had his or her debt written off by PHS will be eligible to apply to the OIG for reinstatement any time following PHS's notification to the individual that there is no longer an outstanding debt.

• *Clarification to § 1001.1801 (Waivers of Exclusions)*

We are proposing to expand the designated programs which may request a waiver of an exclusion to conform with statutory amendments which broadened the scope of an OIG program exclusion. Prior to the BBA, an exclusion was applicable only to participation in Medicare and all State health care programs (as defined in section 1128(h) of the Act). In section 4331 of the BBA, Congress amended sections 1128(a) and (b) of the Act to provide that an exclusion will be from all ''Federal health care programs,'' as defined in section 1128B(f) of the Act. Notwithstanding this authority, current law only permits waivers to be requested by State health care programs.

Although Congress expanded the scope of exclusion under section 1128 of the Act to participation in all other Federal health care programs, it did not explicitly broaden the authority to request a waiver of an exclusion under either section 1128(c)(3)(B) or 1128(d)(3)(B) of the Act to include requests of waivers by Federal health care programs other than Medicare or State health care programs. However, we believe that the clear congressional intent was to broaden both the scope and applicability of the entire exclusion authority to ''all other Federal health care programs.'' Thus, we believe that it would be consistent for the implementing regulations to provide for a parallel approach with respect to requests for waiver of an exclusion. We are, therefore, proposing to amend § 1001.1801 to specify that a ''Federal health care program'' may request a waiver, thus replacing the current provision which only authorizes such waiver requests from a ''State health care program.''

• *Collateral Estoppel Effect in § 1001.2007 (Appeal of Exclusions)*

Many of the OIG exclusion authorities are predicated on prior determinations made by courts or other administrative agencies. Section 1001.2007 of the OIG regulations currently contains a provision that precludes, in the administrative appeal of such exclusions, the relitigation of the underlying determination. We are proposing to further clarify paragraph (d) of this section to specifically state that a civil judgment rendered by a Federal, State or local court is an additional type of prior determination that may serve as the basis for an exclusion (and may not be relitigated in the exclusion proceeding). This clarification is predicated on the general principles of collateral estoppel.

• *Revision to § 1001.3005 (Reversed or Vacated Decisions)*

Section 1001.3005 provides that an individual or entity will be reinstated into the Medicare program retroactive to the effective date of the exclusion when such exclusion is based on either (1) a conviction that is reversed or vacated on appeal, or (2) an action by another agency, such as a State agency or licensing board, that is reversed or vacated on appeal. However, current regulations do not specify at what point in the appeal process retroactive reinstatement will occur. We are proposing to modify § 1001.3005 to provide that when an exclusion action is reversed or vacated at any stage of an administrative appeal process, the OIG will reinstate the individual or entity at that time retroactive to the effective date of the underlying exclusion. However, the regulation would make clear that the exclusion would be reimposed if the administrative decision reversing or vacating the exclusion is overturned upon further appeal.

• *Revisions to § 1003.100 (Basis and Purpose)*

Section 1003.100 sets for the basis and purpose for the OIG's CMP and assessment authorities. In final rulemaking published on July 22, 1999 (64 FR 39428), § 1003.100 was amended by, among other things, revising (b)(1)(iv), (viii), (x) and (xi) and by adding a new paragraph (b)(1)(xii). These revisions to § 1003.100 were not properly reflected in the OIG final rulemaking on April 26, 2000 (65 FR 24415) that also made additional revisions to this section. Accordingly, we are amending § 1003.100 to accurately reflect paragraph (b)(1)(iv). In addition, paragraphs designated in the July 22, 1999 final rule as (b)(1)(viii) and (b)(1)(xii) would now being set forth as paragraphs (b)(1)(xiv) and (b)(1)(xv), respectively, in the section.

• *Revision to the Definition of the Term ''Item and Service'' in § 1003.101 (Definitions)*

The current definition of the term ''item or service'' set forth in § 1003.101 follows the statutory language by defining the term to *include* items or services paid either in accordance with (1) an itemized claim or (2) an entry or omission on a cost report. Some health care providers have mistakenly believed that this definition *only* covered goods and services paid on the bases of those two methodologies, and did not cover goods or services paid in accordance with one of the various prospective payment methodologies. To reflect the varying reimbursement systems and mechanisms in practice, we are proposing to modify the current definition of the term ''item and service'' in this section to clarify that, in addition to itemized claims or cost reports, the term ''item and service'' includes any item or service that is reimbursed through any health care payment mechanism, such as prospective payment systems.

• *Clarifying Factor in § 1003.106(a)(4) for Determining the Amount of Penalty for Patient Dumping Violations*

Section 1003.106(a)(4) sets forth six factors to be taken into account in determining a CMP amount for violations in accordance with § 1003.102(c), the patient anti-dumping provisions. One of the criteria for considering the amount of CMP to impose in a patient dumping case is ''the prior history of offenses'' under the Patient Anti-Dumping Act. The current language allows the OIG only to consider ''prior'' offenses, and does not allow the consideration of similar conduct after the incident in question. For example, if the OIG is pursuing a case against a physician responsible for an inappropriate transfer, and it is learned that the physician was later terminated for causing another inappropriate transfer, we cannot currently consider this in determining the CMP amount, even though we believe that this conduct is relevant in making a determination. In order to permit the OIG to consider this subsequent act in determining the amount of penalty to be assessed, we are proposing to revise paragraph (a)(4)(iii) of this section to allow the OIG to consider as a factor other related or similar allegations subsequent to the incident under review.

• *Revised Time Frames in § 1005.7(e) (Discovery)*

Section 1005.7(e) sets forth procedures and time frames governing the discovery process. The time frames set forth in paragraph (e)(1) are intended to ensure that the hearing process proceeds in an orderly and timely manner, and to induce parties to produce documents within a reasonable period of time. While the 15-day period set forth in the current regulations may be adequate in many cases, it has been

suggested that the time frames given to parties to comply fully with requests for documents and for raising objections may be too short a period of time. Because we believe it is practical to provide greater flexibility and establish more reasonable and appropriate time frames consistent with the Federal Rules of Civil Procedure, we are recommending amending § 1005.7(e)(1) to expand the specified time frames to 30 days. (Section 1005.7(e)(3) already permits the administrative law judge (ALJ) the discretion to further expand or modify these time frames, on a case-by-case basis, for parties to comply and object with discovery.)

• *Revision to § 1005.16 (Witnesses)*

The OIG is proposing to amend § 1005.16(b) to give the ALJ discretion to admit written expert testimony that is reliable. Under the current regulations, the ALJ is not permitted to accept reliable written testimony, such as depositions, trial testimony and administrative proceedings, from experts. We are proposing to revise paragraph (b) by further stating that ''[T]he ALJ may admit prior sworn testimony of experts which has been subject to adverse examination, such as a deposition or trial testimony.'' We believe this revision would allow the ALJ the discretion to admit written testimony of experts if he or she finds it is relevant and reliable.

• *Revision to § 1005.17 (Evidence)*

Section 1005.17 addresses the admissibility of evidence in administrative proceedings. While the ALJs are not strictly bound by the Federal Rules of Evidence (FRE), paragraph (b) of this section permits the ALJs to apply the FRE where appropriate, *e.g.*, to exclude unreliable evidence. However, we believe that there is a need to protect the credibility of witnesses from being attacked by the introduction of evidence of character and conduct not conforming to the limitations of Rule 608 of the FRE. Without such limitations, the introduction of such character and conduct evidence is purely at the discretion of the ALJ who may choose to hear testimony that would be excluded under Rule 608. Because of the unpredictability of this situation, witnesses may be reluctant to testify for fear that their credibility will be attacked by the introduction of highly personal information that may be embarrassing or upsetting, but not highly probative of the witnesses' character for truthfulness or untruthfulness. Therefore, we are proposing to amend § 1005.17 by adding a new paragraph to require adherence to Rule 608 of the FRE in administrative proceedings under this section. We believe that by requiring adherence to Rule 608, the use of character and conduct evidence will be appropriately limited and more predictable for all parties. We do not intend to foreclose other forms of impeachment, such as evidence of criminal conviction or prior inconsistent statements.

• *Revision to U.S.C. Citation in § 1008.37*

In the OIG final rule published in the **Federal Register** on July 16, 1998 (63 FR 38311) addressing the issuance of advisory opinions by the OIG, an inadvertent error was made in citing the United States Code referenced in § 1008.37, disclosure of ownership and related information. The citation error in § 1008.37, which refers to 42 U.S.C. 1302a–3(a)(1), would be corrected to read as 42 U.S.C. 1320a–3(a)(1).

Regulatory Impact Statement

The Office of Management and Budget (OMB) has reviewed this proposed rule in accordance with the provisions of Executive Order 12866, and has determined that it does not meet the criteria for an economically significant regulatory action. Specifically, Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when rulemaking is necessary, to select regulatory approaches that maximize net benefits, including potential economic, environmental, public health, safety distributive and equity effects. In addition, section 202 of the Unfunded Mandates Reform Act, Public Law 104–4, requires that agencies prepare an assessment of anticipated costs and benefits on any rulemaking that may result in an expenditure by State, local or tribal government, or by the private sector of $100 million or more in any given year. Further, under the Small Business Enforcement Act (SBEA) of 1996, if a rule has a significant economic effect on a substantial number of small businesses, the Secretary must specifically consider the economic effect of a rule on small business entities and analyze regulatory options that could lessen the impact of the rule, and under the Regulatory Flexibility Act, if a rule has a significant economic effect on a substantial number of small businesses, the Secretary must specifically consider the economic effect of a rule on small business entities and analyze regulatory options that could lessen the impact of the rule. Executive Order 13132, Federalism, further requires agencies to determine if a rule will have a significant affect on States, on their relationship with the Federal Government, and on the distribution of power and responsibility among the various levels of Government.

Executive Order 12866

Executive Order 12866 requires that all regulations reflect consideration of alternatives, costs, benefits, incentives, equity and available information. Regulations must meet certain standards, such as avoiding unnecessary burden. We believe that this proposed rule would have no significant economic impact. The proposed revisions set forth in this rulemaking are either technical in nature or are designed to further clarify OIG statutory requirements.

Specifically, these provisions are designed to clarify the scope of the OIG's existing authorities to exclude individuals and entities from Medicare, Medicaid and all other Federal health care programs, and to strengthen current legal authorities pertaining to the imposition of CMPs against individuals and entities engaged in prohibited actions and activities. We believe that any aggregate economic effect of these revised regulatory provisions would be minimal and would impact only those limited few who engage in prohibited behavior in violation of the statute. As such, we believe that the aggregate economic impact of these proposed regulations is minimal and would have no appreciable effect on the economy or on Federal or State expenditures.

Unfunded Mandates Reform Act of 1995. Additionally, in accordance with the Unfunded Mandates Reform Act of 1995, we believe that there are no significant costs associated with these proposed revisions that would impose any mandates on State, local or tribal governments, or the private sector that will result in an expenditure of $100 million or more in any given year. As indicated, these proposed revisions are narrow in scope and effect, comport with congressional and statutory intent, and clarify the Department's legal authorities against those who defraud or otherwise act improperly against the Federal and State health care programs. Accordingly, we believe that a full analysis under the Act is not necessary.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (RFA) of 1980, and the Small Business Regulatory Enforcement Act of 1996, which amended the RFA, we are required to determine if this rule will have a significant economic effect on a substantial number of small entities

and, if so, to identify regulatory options that could lessen the impact. While these clarifying provisions may have an impact on small entities, we believe that the aggregate economic impact of this rulemaking would be minimal, since it is the nature of the violation and not the size of the entity that will result in a violation of the statute. Since the vast majority of individuals and entities potentially affected by these regulations do not engage in prohibited arrangements, schemes or practices in violation of the law, we believe that these proposed regulations would not have a significant economic impact on a number of small business entities.

Executive Order 13132, Federalism

We have also reviewed this rule under the threshold criteria of Executive Order 13132, Federalism, and we have determined that this rulemaking would not have significantly affect the rights, roles and responsibilities of States. In summary, we have concluded, and the Secretary certifies, that since this rule would have no significant economic impact on Federal, State or local economies, nor have a significant economic impact on a substantial number of small entities, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

The provisions of these proposed regulations impose no new reporting or recordkeeping requirements necessitating clearance by OMB.

Response to Public Comments

Comments will be available for public inspection beginning on November 3, 2000 in Room 5518 of the Office of Inspector General at 330 Independence Avenue, S.W., Washington, DC, on Monday through Friday of each week from 8:30 a.m. to 4:30 p.m., (202) 619–0089. Because of the large number of comments we normally receive on regulations, we cannot acknowledge or respond to them individually. However, we will consider all timely and appropriate comments when developing the final rule.

List of Subjects

42 CFR Part 1001

Administrative practice and procedure, Fraud, Health facilities, Health professions, Medicaid, Medicare.

42 CFR Part 1003

Administrative practice and procedure, Fraud, Grant programs—health, Health facilities, Health professions, Maternal and child health, Medicaid, Medicare, Penalties.

42 CFR Part 1005

Administrative practice and procedure, Fraud, Penalties.

42 CFR Part 1008

Administrative practice and procedure, Fraud, Grant programs—health, Health facilities, Health professions, Medicaid, Medicare, Penalties.

Accordingly, 42 CFR chapter V would be amended as set forth below:

PART 1001—[AMENDED]

1. The authority citation for part 1001 would continue to read as follows:

Authority: 42 U.S.C. 1302, 1320a–7, 1320a–7b, 1395u(h), 1395u(j), 1395u(k), 1395y(d), 1395y(e), 1395cc(b)(2)(D), (E) and (F), and 1395hh; and sec. 2455, Pub.L. 103–355, 108 Stat. 3327 (31 U.S.C. 6101 note).

2. Section 1001.1 would be amended by redesignating existing paragraph (b) to read as paragraph (c) and by adding a new paragraph (b) to read as follows:

§ 1001.1 Scope and purpose.

* * * * *

(b) A program exclusion is deemed to be remedial in nature and designed to protect Medicare, Medicaid and other Federal health care programs and their beneficiaries from fraudulent individuals and entities. Accordingly, an exclusion is neither time-barred nor subject to any limitations period, even when the exclusion is based on violations of another statute which may have a specified limitations period.

(c) * * *

3. Section 1001.101 would be amended by republishing the introductory text and by revising introductory paragraph (c) to read as follows:

§ 1001.101 Basis for liability.

The OIG will exclude any individual or entity that—

* * * * *

(c) Has been convicted, under Federal or State law, of a felony that occurred after August 21, 1996, relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct—

* * * * *

4. Section 1001.102 would be amended by republishing the introductory text for paragraph (b) and revising paragraphs (b)(1) and (b)(9), and by republishing the introductory text for paragraph (c) and revising paragraph (c)(1) to read as follows:

§ 1001.102 Length of exclusion.

* * * * *

(b) Any of the following factors may be considered to be aggravating and a basis for lengthening the period of exclusion—

(1) The acts resulting in the conviction, or similar acts, resulted in financial loss (both actual loss and intended loss) to a Government program or to one or more entities of $5,000 or more. (The entire amount of financial loss to such programs or entities, including any amounts resulting from similar acts not adjudicated, will be considered regardless of whether full or partial restitution has been made);

* * * * *

(9) Whether the individual or entity was convicted of other offenses besides those which formed the basis for the exclusion, or has been the subject of any other adverse action by any Federal, State or local government agency or board, even if the adverse action is based on the same set of circumstances that serves as the basis for the imposition of the exclusion.

(c) Only if any of the aggravating factors set forth in paragraph (b) of this section justifies an exclusion longer than 5 years, may mitigating factors be considered as a basis for reducing the period of exclusion to no less than 5 years. Only the following factors may be considered mitigating—

(1) The individual or entity was convicted of 3 or fewer misdemeanor offenses, and the entire amount of financial loss (both actual loss and intended loss) to Medicare or any other Federal, State or local governmental health care program due to the acts that resulted in the conviction, and similar acts, is less than $1,500;

* * * * *

5. Section 1001.201 would be amended by republishing the introductory text for paragraph (b)(2) and revising paragraph (b)(2)(i), and by republishing the introductory text for paragraph (b)(3) and revising paragraph (b)(3)(i) to read as follows:

§ 1001.201 Conviction relating to program or health care fraud.

* * * * *

(b) * * *

(2) Any of the following factors may be considered to be aggravating and a basis for lengthening the period of exclusion—

(i) The acts resulting in the conviction, or similar acts, resulted in financial loss (both actual loss and intended loss) of $5,000 or more to a Government program or to one or more other entities, or had a significant financial impact on program beneficiaries or other individuals. (The total amount of financial loss will be

considered, including any amounts resulting from similar acts not adjudicated, regardless of whether full or partial restitution has been made);

* * * * *

(3) Only the following factors may be considered as mitigating and a basis for reducing the period of exclusion—

(i) The individual or entity was convicted of 3 or fewer offenses, and the entire amount of financial loss (both actual loss and intended loss) to a Government program or to other individuals or entities due to the acts that resulted in the conviction and similar acts is less than $1,500;

* * * * *

6. Section 1001.951 would be amended by revising paragraph (b)(1)(ii) to read as follows:

§ 1001.951 Fraud and kickbacks and other prohibited activities.

* * * * *

(b) * * *

(1) * * *

(ii) The nature and extent of any adverse physical, mental, financial or other impact the conduct had on program beneficiaries or other individuals or the Medicare, Medicaid and all other Federal health care programs;

* * * * *

7. Section 1001.952 would be amended as follows:

a. By republishing the introductory text;

b. Republishing the introductory text to paragraph (b), revising paragraph (b)(5), removing the undesignated paragraph following paragraph (b)(5), and adding a sentence at the end of paragraph (b)(6);

c. Republishing the introductory text to paragraph (c), revising paragraph (c)(5), removing the undesignated paragraph following paragraph (c)(5), and adding a sentence at the end of paragraph (c)(6);

d. Republishing the introductory text to paragraph (d) and revising paragraph (d)(5);

e. Republishing introductory text to paragraph (e)(1) and revising paragraph (e)(1)(ii);

f. Republishing introductory text to paragraph (e)(2) revising paragraph (e)(2)(ii);

g. Republishing introductory paragraph (f) and revising paragraph (f)(2) ;

h. Revising introductory paragraph (h); introductory paragraph (h)(1), introductory paragraph (h)(1)(ii) and introductory paragraph (h)(1)(iii); introductory paragraph (h)(2) and paragraph (h)(2)(ii)(A); introductory paragraph (h)(3) and introductory paragraph (h)(3)(iii); paragraph (h)(4); and paragraphs (h)(5)(ii) and (h)(5)(iii);

i. Revising paragraph (i);

j. Republishing the introductory paragraph (j), adding a sentence at the end of paragraph (j)(2), and removing the undesignated paragraph following paragraph (j)(2);

k. Republishing introductory paragraph (n) and revising paragraph (n)(6);

l. Republishing introductory paragraph (o) and revising paragraph (o)(5);

m. Revising introductory paragraph (r) and paragraph (r)(2)(ii); and

n. Revising the introductory text for paragraph (s).

The revisions to § 1001.952 would read as follows:

§ 1001.952 Exceptions.

The following payment practices shall not be treated as a criminal offense under section 1128B of the Act and shall not serve as the basis for an exclusion:

* * * * *

(b) *Space rental.* As used in section 1128B of the Act, ''remuneration'' does not include any payment made by a lessee to a lessor for the use of premises, as long as all of the following six standards are met—

* * * * *

(5) The aggregate rental charge is set in advance, is consistent with fair market value in arms-length transactions and is not determined in a manner that takes into account the volume or value of any referrals or business otherwise generated between the parties for which payment may be made in whole or in part under Medicare, Medicaid or other Federal health care program.

(6) * * * Note that for purposes of paragraph (b) of this section, the term *fair market value* means the value of the rental property for general commercial purposes, but shall not be adjusted to reflect the additional value that one party (either the prospective lessee or lessor) would attribute to the property as a result of its proximity or convenience to sources of referrals or business otherwise generated for which payment may be made in whole or in part under Medicare, Medicaid and all other Federal health care programs.

* * * * *

(c) *Equipment rental.* As used in section 1128B of the Act, ''remuneration'' does not include any payment made by a lessee of equipment to the lessor of the equipment for the use of the equipment, as long as all of the following six standards are met—

* * * * *

(5) The aggregate rental charge is set in advance, is consistent with fair market value in arms-length transactions and is not determined in a manner that takes into account the volume or value of any referrals or business otherwise generated between the parties for which payment may be made in whole or in part under Medicare, Medicaid or all other Federal health care programs.

(6) * * * Note that for purposes of paragraph (c) of this section, the term *fair market value* means the value of the equipment when obtained from a manufacturer or professional distributor, but shall not be adjusted to reflect the additional value one party (either the prospective lessee or lessor) would attributable to the equipment as a result of its proximity or convenience to sources of referrals or business otherwise generated for which payment may be made in whole or in part under Medicare, Medicaid or other Federal health care program.

(d) *Personal services and management contracts.* As used in section 1128B of the Act , ''remuneration'' does not include any payment made by a principal to an agent as compensation for the services of the agent , as long as all of the following seven standards are met—

* * * * *

(5) The aggregate compensation paid to the agent over the term of the agreement is set in advance, is consistent with fair market value in arms-length transactions and is not determined in a manner that takes into account the volume or value of any referrals or business otherwise generated between the parties for which payment may be made in whole or in part under Medicare, Medicaid or other Federal health care programs.

* * * * *

(e) *Sale of practice.* (1) As used in section 1128B of the Act, ''remuneration'' does not include any payment made to a practitioner by another practitioner where the former practitioner is selling his or her practice to the latter practitioner, as long as both of the following two standards are met—

* * * * *

(ii) The practitioner who is selling his or her practice will not be in a professional position to make referrals to, or otherwise generate business for, the purchasing practitioner for which payment may be made in whole or in part under Medicare, Medicaid or other Federal health care programs after one

year from the date of the first agreement pertaining to the sale.

(2) As used in section 1128B of the Act, ''remuneration'' does not include any payment made to a practitioner by a hospital or other entity where the practitioner is selling his or her practice to the hospital or other entity, so long as the following four standards are met:

* * * * *

(ii) The practitioner who is selling his or her practice will not be in a professional position after completion of the sale to make or influence referrals to, or otherwise generate business for, the purchasing hospital or entity for which payment may be made under Medicare, Medicaid or other Federal health care programs.

* * * * *

(f) *Referral services.* As used in section 1128B of the Act, ''remuneration'' does not include any payment or exchange of anything of value between an individual or entity (''participant'') and another entity serving as a referral service (''referral service''), as long as all of the following four standards are met—

* * * * *

(2) Any payment the participant makes to the referral service is assessed equally against and collected equally from all participants, and is only based on the cost of operating the referral service, and not on the volume or value of any referrals to or business otherwise generated by the either party for the referral service for which payment may be made in whole or in part under Medicare, Medicaid or other Federal health care programs.

* * * * *

(h) *Discounts.* As used in section 1128B of the Act, ''remuneration'' does not include a discount, as defined in paragraph (h)(5) of this section, on an item or service for which payment may be made, in whole or in part, under Medicare, Medicaid or other Federal health care programs for a *buyer* as long as the buyer complies with the applicable standards of paragraph (h)(1) of this section; a *seller* as long as the seller complies with the applicable standards of paragraph (h)(2) of this section; and an *offeror* of a discount who is not a seller under paragraph (h)(2) of this section so long as such offeror complies with the applicable standards of paragraph (h)(3) of this section:

(1) With respect to the following three categories of buyers, the buyer must comply with all of the applicable standards within one of the three following categories—

* * * * *

(ii) If the buyer is an entity which reports its costs on a cost report required by the Department or a health agency, it must comply with all of the following four standards—

* * * * *

(iii) If the buyer is an individual or entity in whose name a claim or request for payment is submitted for the discounted item or service and payment may be made, in whole in part, under Medicare, Medicaid or other Federal health care programs (not including individuals or entities defined as buyers in paragraph (h)(1)(i) or (h)(1)(ii) of this section), the buyer must comply with both of the following standards—

* * * * *

(2) The seller is an individual or entity that supplies an item or service for which payment may be made, in whole or in part, under Medicare, Medicaid or other Federal health care programs to the buyer and who permits a discount to be taken off the buyer's purchase price. The seller must comply with all of the applicable standards within one of the following three categories—

* * * * *

(ii) * * *

(A) Where the value of the discount is known at the time of sale, the seller must fully and accurately report such discount on the invoice, coupon or statement submitted to the buyer; inform the buyer in a manner that is reasonably calculated to give notice to the buyer of its obligations to report such discount and to provide information upon request under paragraph (h)(1) of this section; and refrain from doing anything that would impede the buyer from meeting its obligations under this paragraph; or

* * * * *

(3) The offeror of a discount is an individual or entity who is not a seller under paragraph (h)(2) of this section, but promotes the purchase of an item or service by a buyer under paragraph (h)(1) of this section at a reduced price for which payment may be made, in whole or in part, under Medicare, Medicaid or other Federal health care programs. The offeror must comply with all of the applicable standards within the following three categories—

* * * * *

(iii) If the buyer is an individual or entity in whose name a request for payment is submitted for the discounted item or service and payment may be made, in whole or in part, under Medicare, Medicaid or other Federal health care programs (not including individual or entities defined as buyers in paragraph (h)(1)(i) or (h)(1)(ii) of this section), the offeror must comply with the following two standards—

* * * * *

(4) For purposes of this paragraph, a *rebate* is any discount the terms of which are fixed and disclosed in writing to the buyer at the time of the initial purchase to which the discount applies, but which is given *after* the time of sale.

(5) * * *

(ii) Supplying one good or service without charge or at a reduced charge to induce the purchase of a different good or service, unless the goods and services are reimbursed by the same Federal health care program using the same methodology (*e.g.,* under the same DRG, prospective payment, or per diem, but not including fee schedules) and the reduced charge is fully disclosed to the Federal health care program and accurately reflected, where appropriate, and as appropriate, to the reimbursement methodology;

(iii) A reduction in price applicable to one payer but not to Medicare, Medicaid or other Federal health care programs;

* * * * *

(i) *Employees.* As used in section 1128B of the Act, ''remuneration'' does not include any amount paid by an employer to an employee, who has a bona fide employment relationship with the employer, for employment in the furnishing of any item or service for which payment may be made in whole or in part under Medicare, Medicaid or other Federal health care program. For purposes of paragraph (i) of this section, the term *employee* has the same meaning as it does for purposes of 26 U.S.C. 3121(d)(2).

(j) *Group purchasing organizations.* As used in section 1128B of the Act, ''remuneration'' does not include any payment by a vendor of goods or services to a group purchasing organization (GPO), as part of an agreement to furnish such goods or services to an individual or entity as long as both of the following two standards are met—

* * * * *

(2) * * * Note that for purposes of paragraph (j) of this section, the term *group purchasing organization* (GPO) means an entity authorized to act as a purchasing agent for a group of individuals or entities who are furnishing services for which payment may be made in whole or in part under Medicare, Medicaid or other Federal health care programs, and who are neither wholly-owned by the GPO nor subsidiaries of a parent corporation that wholly owns the GPO (either directly or through another wholly-owned entity).

* * * * *

(n) *Practitioner recruitment.* As used in section 1128B of the Act, ''remuneration'' does not include any payment or exchange of anything of value by an entity in order to induce a practitioner who has been practicing within his or her current specialty for less than 1 year to locate, or to induce any other practitioner to relocate, his or her primary place of practice into a HPSA for his or her specialty area, as defined in Departmental regulations, that is served by the entity, as long as all of the following nine standards are met—

* * * * *

(6) The amount or value of the benefits provided by the entity may not vary (or be adjusted or renegotiated) in any manner based on the volume or value of any expected referrals to or business otherwise generated for the entity by the practitioner for which payment may be made in whole in part under Medicare, Medicaid or any other Federal health care programs.

* * * * *

(o) *Obstetrical malpractice insurance subsidies.* As used in section 1128B of the Act, ''remuneration'' does not include any payment made by a hospital or other entity to another entity that is providing malpractice insurance (including a self-funded entity), where such payment is used to pay for some or all of the costs of malpractice insurance premiums for a practitioner (including a certified nurse-midwife as defined in section 1861(gg) of the Act) who engages in obstetrical practice as a routine part of his or her medical practice in a primary care HPSA, as long as all of the following seven standards are met—

* * * * *

(5) The amount of payment may not vary based on the volume or value of any previous or expected referrals to or business otherwise generated for the entity by the practitioner for which payment may be made in whole or in part under Medicare, Medicaid or any other Federal health care programs.

* * * * *

(r) *Ambulatory surgical center.* As used in section 1128B of the Act, ''remuneration'' does not include any payment that is in return on an investment interest, such as a dividend or interest income, made to an investor, as long as the investment entity is a certified ambulatory surgical center (ASC) under part 416 of this title, the operating and recovery room space of which is dedicated exclusively to the ASC; patients referred to the investment entity by an investor are fully informed of the investor's investment interest; and all of the applicable standards are met within one of the following four categories—

* * * * *

(2) * * *

(ii) At least one-third of each physician investor's medical practice income from all sources for the previous fiscal year or previous 12-month period must be derived from the physician's performance of procedures (as defined in this paragraph).

* * * * *

(s) *Referral arrangements for specialty services.* As used in section 1128B of the Act, ''remuneration'' does not include any exchange of value among individuals and entities where one party agrees to refer a patient to the other party for the provision of a specialty service payable in whole or in part under Medicare, Medicaid or any other Federal health care programs in return for an agreement on the part of the other party to refer that patient back at a mutually agreed upon time or circumstance as long as the following four standards are met—

* * * * *

8. Section 1001.1501 would be amended by revising paragraph (b) to read as follows:

§ 1001.1501 Default of health education loan or scholarship obligations.

* * * * *

(b) *Length of exclusion.* The individual will be excluded until such time as PHS notifies the OIG that the default has been cured or that there is no longer an outstanding debt. Upon such notice, the OIG will inform the individual of his or her right to apply for reinstatement. 9. Section 1001.1801 would be amended by revising paragraphs (a), (b), (e) and (f), and by deleting paragraph (g) to read as follows:

§ 1001.1801 Waivers of exclusions.

(a) The OIG has authority to grant or deny a request from a Federal health care program that an exclusion from that program be waived with respect to an individual or entity, except that no waiver may be granted with respect to an exclusion under § 1001.101(b). The waiver request must be in writing and from an individual directly responsible for administering the Federal health care program.

(b) With respect to exclusions under § 1001.101(a), a request from a Federal health care program for a waiver of the exclusion will only be considered if the individual is the sole community physician or if the individual or entity is the sole source of essential specialized items or services.

* * * * *

(e) In the event a waiver is granted, the OIG may determine the scope of the waiver to apply to particular items, services, locations or programs.

(f) The decision to grant or deny a request for a waiver, to limit the scope of a waiver, or to rescind a waiver is not subject to administrative or judicial review.

10. Section 1001.2007 would be amended by revising paragraph (d) to read as follows:

§ 1001.2007 Appeal of exclusions.

* * * * *

(d) When the exclusion is based on the existence of a criminal conviction or a civil judgment imposing liability by Federal, State or local court, a determination by another Government agency, or any other prior determination where the facts were adjudicated and a final decision was made, the basis for the underlying conviction, civil judgment or determination is not reviewable and the individual or entity may not collaterally attack it either on substantive or procedural grounds in this appeal.

* * * * *

11. Section 1001.3005 would be amended by revising paragraph (a) and by adding a new paragraph (e) to read as follows:

§ 1001.3005 Reversed or vacated decisions.

(a) An individual or entity will be reinstated into Medicare, Medicaid and other Federal health care programs retroactive to the effective date of the exclusion when such exclusion is based on—

(1) A conviction that is reversed or vacated on appeal;

(2) An action by another agency, such as a State agency or licensing board, that is reversed or vacated on appeal; or

(3) An OIG exclusion action that is reversed or vacated at any stage of an individual's or entity's administrative appeal process.

* * * * *

(e) If an action which results in the retroactive reinstatement of an individual or entity is subsequently overturned, the OIG may reimpose the exclusion for the initial period of time, less the period of time that was served prior to the reinstatement of the individual or entity.

PART 1003—[AMENDED]

1. The authority citation for part 1003 would continue to read as follows:

Authority: 42 U.S.C. 1302, 1320a–7, 1320a–7a, 1320a–7e, 1320b–10, 1395u(j), 1395u(k), 1395cc(g), 1395dd(d)(1), 1395mm,

1395nn(g), 1395ss(d), 1396b(m), 11131(c) and 11137(b)(2).

2. Section 1003.100 would be amended by revising paragraphs (b)(1)(iv), (b)(1)(xii) and (b)(1)(xiii); and by adding paragraphs (b)(1)(xiv) and (b)(1)(xv) to read as follows:

§ 1003.100 Basis and purpose.

* * * * *

(b) * * *

(1) * * *

(iv)(A) Fail to report information concerning medical malpractice payments or who improperly disclose, use or permit access to information reported under part B of title IV of Public Law 99–660, and regulations specified in 45 CFR part 60, or

(B) Are health plans and fail to report information concerning sanctions or other adverse actions imposed on providers as required to be reported to the Healthcare Integrity and protection Data Bank (HIPDB) in accordance with section 1128E of the Act;

* * * * *

(xii) Offer inducements that they know or should know are likely to influence Medicare or State health care program beneficiaries to order or receive particular items or services;

(xiii) Are physicians who knowingly misrepresent that a Medicare beneficiary requires home health services;

(xiv) Have submitted, or caused to be submitted, certain prohibited claims, including claims for services rendered by excluded individuals employed by or otherwise under contract with such person, under one or more Federal health care programs; or

(xv) Violate the Federal health care programs' anti-kickback statute as set forth in section 1128B of the Act.

* * * * *

3. Section 1003.101 would be amended by republishing the introductory text and by revising the definition for the term *item or service* to read as follows:

§ 1003.101 Definitions.

For purposes of this part:

* * * * *

Item or service includes—

(1) Any item, device, medical supply or service provided to a patient—

(i) Which is listed in an itemized claim for program payment or a request for payment, or

(ii) For which payment is included in other Federal or State health care reimbursement methods, such as a prospective payment system; and

(2) In the case of a claim based on costs, any entry or omission in a cost report, books of account or other documents supporting the claim.

* * * * *

4. Section 1003.106 would be amended by republishing the introductory text for paragraph (a)(4) and by revising paragraph (a)(4)(iii) to read as follows:

§ 1003.106 Determinations regarding the amount of the penalty and assessment.

(a) * * *

(4) In determining the amount of any penalty in accordance with § 1003.102(c), the OIG takes into account—

* * * * *

(iii) Any other instances where the respondent failed to provide appropriate emergency medical screening, stabilization and treatment of individuals coming to a hospital's emergency department or to effect an appropriate transfer;

* * * * *

PART 1005—[AMENDED]

1. The authority citation for part 1005 would continue to read as follows:

Authority: 42 U.S.C. 405(a), 405(b), 1302, 1320a–7, 1320a–7a and 1320c–5.

2. Section 1005.7 would by amended by revising paragraph (e)(1) to read as follows:

§ 1005.7 Discovery.

* * * * *

(e)(1) When a request for production of documents has been received, within 30 days the party receiving that request will either fully respond to the request, or state that the request is being objected to and the reasons for that objection. If objection is made to part of an item or category, the part will be specified. Upon receiving any objections, the party seeking production may then, within 30 days or any other time frame set by the ALJ, file a motion for an order compelling discovery. (The party receiving a request for production may also file a motion for protective order any time prior to the date the production is due.)

* * * * *

3. Section 1005.16 would be amended by revising paragraph (b) to read as follows:

§ 1005.16. Witnesses.

* * * * *

(b) At the discretion of the ALJ, testimony (other than expert testimony) may be admitted in the form of a written statement. The ALJ may admit prior sworn testimony of experts which has been subject to adverse examination, such as a deposition or trial testimony. Any such written statement must be provided to all other parties along with the last known address of such witnesses, in a manner that allows sufficient time for other parties to subpoena such witness for cross-examination at the hearing. Prior written statements of witnesses proposed to testify at the hearing will be exchanged as provided in § 1005.8.

* * * * *

4. Section 1005.17 would be amended by redesignating existing paragraphs (g) through (j) respectively as new paragraphs (h) through (k); and by adding a new paragraph (g) to read as follows:

§ 1005.17 Evidence.

* * * * *

(g) Evidence related to the character and conduct of witnesses may be introduced only as permitted under Rule 608 of the Federal Rules of Evidence.

* * * * *

PART 1008—[AMENDED]

1. The authority citation for part 1008 would continue to read as follows:

Authority: 42 U.S.C. 1320a–7d(b).

2. Section 1008.37 would be revised to read as follows:

§ 1008.37 Disclosure of ownership and related information.

Each individual or entity requesting an advisory opinion must supply full and complete information as to the identity of each entity owned or controlled by the individual or entity, and of each person with an ownership or control interest in the entity, as defined in section 1124(a)(1) of the Social Security Act (42 U.S.C. 1320a–3(a)(1)) and part 420 of this chapter.

(Approved by the Office of Management and Budget under control number 0990–0213)

Dated: May 31, 2000.

Michael F. Mangano,

Principal Deputy Inspector General.

Approved: June 29, 2000.

Donna E. Shalala,

Secretary.

[FR Doc. 00–26736 Filed 10–19–00; 8:45 am]

BILLING CODE 4152–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2323, MM Docket No. 00–200, RM–9967]

Digital Television Broadcast Service; Sioux Falls, SD

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Midwest Broadcasting Company, permittee of Station KAUN(TV), NTSC Channel 36, Sioux Falls, South Dakota, requesting the substitution of DTV Channel 51 for Station KAUN(TV)'s assigned DTV Channel 40. DTV Channel 51 can be allotted to Sioux Falls, South Dakota, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (43–30–19 N. and 96–34–19 W.). As requested, we propose to allot DTV Channel 51 to Sioux Falls with a power of 93 and a height above average terrain (HAAT) of 230 meters.

DATES: Comments must be filed on or before December 8, 2000, and reply comments on or before December 26, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: David M Silver, Cole, Raywid & Braverman, L.L.P., 1919 Pennsylvania Avenue, NW., Suite 200, Washington, DC 20006 (Counsel for Midwest Broadcasting Company).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–200, adopted October 16, 2000, and released October 17, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center, 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW., Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00–26948 Filed 10–19–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[DA 00–2324, MM Docket No. 00–201, RM–9919]

Digital Television Broadcast Service; Portsmouth, VA

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: The Commission requests comments on a petition filed by Viacom Broadcasting of Seattle, Inc., licensee of station WGNT–TV, NTSC channel 27, Portsmouth, Virginia, requesting the substitution of DTV channel 50 for station WGNT–TV's assigned DTV channel 19. DTV Channel 50 can be allotted to Portsmouth, Virginia, in compliance with the principle community coverage requirements of Section 73.625(a) at reference coordinates (36–48–43 N. and 76–27–49 W.). As requested, we propose to allot DTV Channel 50 to Portsmouth with a power of 800 and a height above average terrain (HAAT) of 296 meters.

DATES: Comments must be filed on or before December 8, 2000, and reply comments on or before December 26, 2000.

ADDRESSES: Federal Communications Commission, 445 12th Street, SW., Room TW–A325, Washington, DC 20554. In addition to filing comments with the FCC, interested parties should serve the petitioner, or its counsel or consultant, as follows: Raymond A. White, Viacom Broadcasting of Seattle, Inc., c/o Paramount Stations Group, Inc., 5202 River Road, Bethesda, Maryland 20816 (Counsel for Viacom Broadcasting of Seattle, Inc.).

FOR FURTHER INFORMATION CONTACT: Pam Blumenthal, Mass Media Bureau, (202) 418–1600.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Commission's Notice of Proposed Rule Making, MM Docket No. 00–201, adopted October 16, 2000, and released October 17, 2000. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Reference Center 445 12th Street, SW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Provisions of the Regulatory Flexibility Act of 1980 do not apply to this proceeding.

Members of the public should note that from the time a Notice of Proposed Rule Making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel allotments. See 47 CFR 1.1204(b) for rules governing permissible *ex parte* contacts.

For information regarding proper filing procedures for comments, see 47 CFR 1.415 and 1.420.

Federal Communications Commission.

Barbara A. Kreisman,

Chief, Video Services Division, Mass Media Bureau.

[FR Doc. 00–26947 Filed 10–19–00; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Notice of Reclassification of Nine Candidate Taxa

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of candidate taxa reclassification.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), provide explanation for a change in the status of one animal and eight plant taxa that were under review for possible addition to the Lists of Endangered and Threatened Wildlife and Plants (Lists) under the Endangered Species Act of 1973, as amended (Act). We are removing these nine species from candidate status at this time. Based on information gathered on all of these

species, continuation of candidate status is no longer warranted.

DATES: We will accept comments on this notice at any time.

ADDRESSES: Comments and questions concerning this notice should be submitted to the Chief, Office of Conservation and Classification, Division of Endangered Species, U.S. Fish and Wildlife Service, 1849 C Street, NW., Mail Stop 420 ARLSQ, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Nancy Gloman, Chief, Office of Conservation and Classification, Division of Endangered Species, 703/358–2171.

SUPPLEMENTARY INFORMATION:

Background

The Endangered Species Act of 1973, as amended (Act) (16 U.S.C. 1531 *et seq.*), requires that we identify taxa of wildlife and plants that are endangered or threatened, based on the best available scientific and commercial information. As part of this program, we have maintained a list of taxa we regard as candidates for addition to the Lists. A candidate is one for which we have on file sufficient information on biological vulnerability and threats to support a proposal to list as endangered or threatened. Section 4(a)(1) of the Act requires us to examine five factors to determine whether a species should or should not be added to the Lists:

(A) The present or threatened destruction, modification, or curtailment of the species' habitat or range;

(B) Overutilization of the species for commercial, recreational, scientific, or educational purposes;

(C) Disease or predation affecting the species;

(D) The inadequacy of existing regulatory mechanisms to protect the species; and

(E) Other natural or manmade factors affecting the species' continued existence.

After review of these factors we are required to make a determination ''solely on the basis of the best scientific and commercial data available'' and ''taking into account those efforts, if any, being made by any State or foreign nation, or any political subdivision of a State or foreign nation, to protect such species, whether by predator control, protection of habitat and food supply, or other conservation practices, within any area under its jurisdiction, or on the high seas.'' Sections 4(a)(1) and 4(b)(1)(A) and our regulations at 50 CFR 424.11(f) require us to consider any State or local laws, regulations, ordinances, programs, or other specific conservation measures that either positively or negatively affect a species' status (*i.e.,* efforts that create, exacerbate, reduce, or remove threats identified through the section 4(a)(1) analysis).

On October 25, 1999, we published our most recent annual review of all candidate taxa (64 FR 57534). As a result of our review, we determined that the following species should be removed from candidate status based on our evaluation of the five factors listed above. This notice provides specific explanations for the reclassification of one animal and eight plant taxa.

It is important to note that candidate assessment is an ongoing function and changes in status should be expected. If we remove taxa from the candidate list, they may be restored to candidate status if additional information supporting such a change becomes available to us. We issue requests for such information in a Candidate Notice of Review published in the **Federal Register** every year.

Findings

The McCloud River redband trout (*Oncorhynchus mykiss* ssp.) is native to the McCloud River system in northern California. The species was considered to warrant a proposal to list as threatened due to habitat degradation, recreational fishing, and stocking of hatchery fish. In December 1998, a Conservation Agreement and Strategy was completed and signed in a collaborative effort between Federal and State agencies, private industry, and private citizens. Implementation of the Conservation Strategy will reduce threats to the McCloud River redband trout, such as fish stocking, recreational fishing, stream barriers, and land management activities that degrade the species habitat. The strategy delineates a refugium to be managed specifically for the protection and enhancement of redbands and their habitat and provides for the development of a watershed improvement plan to address sedimentation, bank stabilization, barrier development or removal, riparian restoration, and habitat enhancement. The strategy also provides for the monitoring of grazing and timber practices; closing of roads; fencing of streams; and the development of flood and drought contingency plans. Based on this information, continuation of candidate status for this species is not warranted.

Calochortus umpquaensis (Umpqua mariposa lily) was described by Fredericks in 1989 in Douglas County, Oregon (Fredericks 1989a). Fourteen populations are known from an area of about 80.4 square kilometers (km) (50 square miles (mi)), with four located on Bureau of Land Management (BLM) lands. Recent estimates place the number of plants extant on BLM lands on Ace Williams Mountain between 400,000 to 800,000 individuals. Earlier population estimates were 120,000 to 140,000 individuals (Fredericks 1989b, 1992). A Conservation Agreement among the BLM, the Forest Service (FS), and the Fish and Wildlife Service was signed on April 4, 1996. The agreement is being implemented, and populations appear stable and larger than previously thought. The threats of timber harvest and cattle grazing are being addressed. Based on this information, continuation of candidate status for this species is not warranted.

Eriogonum argophyllum (Sulphur Springs buckwheat) consists of 3,700 to 5,000 individuals restricted to approximately 8 hectares (ha) (20 acres (ac)) of private land on the mound of Sulphur Hot Springs in northern Ruby Valley, Elko County, Nevada. The species was considered to warrant a proposal to list as threatened due to large-scale disturbance associated with geothermal and other land or resource development, including diversion of surface water and lowering of the water table. The threat of geothermal development has been eliminated. We are aware of no proposals for geothermal or other development of the Sulphur Hot Springs site at this time, nor do we have any indication that proposals will be made in the foreseeable future. In addition the area is fenced which will protect against off-highway vehicle activity and impacts from livestock. The Sulphur Springs buckwheat is protected by the State of Nevada as ''critically endangered,'' and the Nevada Division of Forestry (NDF) does monitor any potentially harmful activities at or near the Sulphur Hot Springs site and would require habitat protection and other mitigation, as appropriate, prior to issuing any permits to allow any disturbance of the species. Based on this information, no current and no foreseeable threats can be identified to the population. Therefore the continuation of candidate status for this species is not warranted.]

Lathyrus biflorus (two-flowered lathyrus) is known only from Red Mountain in northern Humboldt County, California. Our best available information indicates that no current and no foreseeable threats can be identified to the population and that much adjacent potential habitat remains uninventoried. We previously had reason to believe that the property

would likely be developed. However, given that the area is remote and has many access problems, immediate and future development of the parcel is not likely. The California Department of Fish and Game and the California Department of Forestry and Fire Protection are aware of the species and intend to protect its habitat. Based on this information, no current and no foreseeable threats can be identified to the population. Therefore the continuation of candidate status for this species is not warranted.

Silene campanulata ssp. *campanulata* (Red Mountain campion (or catchfly)) occurs in chaparral and lower coniferous forests on the mostly eastern side of the northern Coast Mountain Range, California. Local agency botantists have determined that populations of *Silene* found on BLM and FS lands are a subspecies of *Silene* other than *Silene campanulata ssp. campanulata*. At this time, the expert for this species maintains that the standing of the taxon, *Silene campanulata* ssp. *campanulata*, is doubtful and that certain collections are intermediates (hybrids) between *Silene campanulata* ssp. *campanulata* and *Silene campanulata* ssp. *glanulosa*. Originally the subspecies was thought to be restricted to Red Mountain in Mendocino County, California, where subsurface and surface mining of nickel and cobalt threaten two populations. Since 1980, additional populations have been discovered. Beginning in 1993, as many as seven additional populations were documented. No documentation of any threats to the newly discovered populations and the uncertain taxonomic status have led us to discontinue candidate status for this species. Therefore, at this time we do not have on file sufficient information on biological vulnerability and threats to support a proposal to list as endangered or threatened.

Cimicifuga arizonica (Arizona bugbane) is an herbaceous perennial plant that occurs in mixed-conifer and high-elevation riparian deciduous forests and is known only from National Forest lands in central Arizona, within Coconino and Gila Counties. The species was primarily considered threatened due to activities, such as livestock grazing and timber harvest, that reduce canopy closure and destroy shaded areas that the species needs for survival. The three National Forests that contain all known populations of this species have developed conservation strategies adequate to protect the species. The Forest Service completed its conservation strategy in 1993 and updated it in 1999 for the Tonto National Forest; in 1995, the Forest Service completed a conservation assessment and strategy for the Coconino and Kaibab National Forests. These strategies have become part of a 1999 conservation agreement between the Forest Service and us that will ensure the survival and conservation of the species. Based on this information, no current and no foreseeable threats can be identified to the population. Therefore the continuation of candidate status for this species is not warranted.

Zanthoxylum parvum (Shinner's tickle-tongue) is a plant member of the oak-maple complex community understory and was known only from 2 populations (each containing less than 20 small individuals, all male) in the Davis Mountains, in arid west Texas. Recently we received reports from The Nature Conservancy of Texas and from Dr. Jim Zechs, Sul Ross University, that several additional sites have been found, including some female plants. Dr. Zechs now believes that the total number of sites is between seven and nine. We do not have any further information, however, on locality and population status for these new sites. The Nature Conservancy of Texas has recently acquired significant new lands in the area, and has secured conservation easements on others, which may improve conservation for the species. The biological, threat, and conservation information appears to be substantially changed for this species; based on this information, continuation of candidate status for this species is not warranted.

Arabis pusilla (small rock-cress) is endemic (native) to Wyoming, occurring within the southern Wind River Mountains. The species was only recently discovered and is known from a single documented population and type locality estimated at approximately 1,000 plants scattered over a 64.8-ha (160-ac) area. Lands containing *A. pussila* are completely under BLM jurisdiction. Adverse impacts to the plant and its habitat were occurring until 1994 when BLM approved the A. pusilla Habitat Management Plan (HMP). At that time, BLM implemented an emergency closure of the Habitat Management Area to all mechanized and nonmotorized vehicle use, and in 1996 constructed a cattle exclosure fence around the habitat. The 1998 Green River Resource Management Plan designated the area as a Plant Area of Critical Environmental Concern, and provides a no-surface-occupancy stipulation for oil and gas development. Although *A. pussila* is still rare, BLM's activities in approving and implementing the HMP have served to reduce or eliminate the threats facing this species and ensures the survival and conservation of the species. Based on this information, continuation of candidate status for this species is not warranted.

Allium gooddingii (Goodding's onion) is an herbaceous perennial plant occurring most frequently in drainage bottoms associated with perennial, intermittent streams, and on moist, north-facing slopes of mature mixed-conifer and spruce-fir forests. *A. gooddingii* is found on lands in the Apache-Sitgreaves, Coronado, Lincoln, and Gila National Forests. Habitat destruction and modification from logging, road construction, and grazing were considered the primary threats to the species. A 1998 conservation agreement between the FS and us ensures the continued survival and conservation of *A. gooddingii*. Some components of the agreement that reduce or eliminate threats to the onion include maintaining the canopy cover and avoiding ground disturbance and erosion during timber harvesting activities in and near occupied sites, prohibiting new livestock structures that would attract grazing ungulates to occupied sites, and prohibiting or redesigning new roads and trails found to adversely affect the onion. Based on this information, continuation of candidate status for this species is not warranted.

We have removed the taxa listed below from the candidate list. However, we did not provide an explanation for their change in status in this notice, since we published this information previously in the **Federal Register** on the dates given:

Clematis hirsutissma var. *arizonica* (Arizona leatherflower), January 9, 1998 (63 FR 1418); *Astragalus oophorus* var. *clokeyanus* (Clokey's egg-vetch), *Castilleja elongata* (tall paintbrush), *Dalea tentaculoides* (Gentry's indigobush), *Pediocactus paradinei* (Kaibab plains cactus), April 2, 1998 (63 FR16217); Columbia spotted frog (Wasatch front population and West Desert population) (*Rana luteiventris*), April 2, 1998 (63 FR 16218); Florida black bear (*Ursus americanus floridanus*), December 8, 1998 (63 FR 67613); *Lesquerella stonensis* (Stones River bladderpod May 11, 1999 (64 FR 25216).

Author

This notice was compiled from materials supplied by staff biologists located in the Service's regional and field offices. The materials were compiled by Susan Jacobsen, Division of

Endangered Species (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

Dated: October 13, 2000.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 00–26968 Filed 10–19–00; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AG29

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Critical Habitat for the Mexican Spotted Owl; Availability of Draft Economic Analysis and Draft Environmental Assessment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period, notice of availability.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the availability of the draft Economic Analysis and draft Environmental Assessment for the proposal to designate critical habitat for the Mexican spotted owl (*Strix occidentalis lucida*) under the Endangered Species Act of 1973, as amended. We are also reopening the public comment period for the proposal. The new comment period will allow all interested parties to submit comments on the draft Economic Analysis, draft Environmental Assessment, and any other aspect of the proposed designation.

DATES: The comment period for this proposal, which originally closed on September 19, 2000, is reopened and now closes on November 20, 2000. Comments on the draft Economic Analysis, draft Environmental Assessment, and any other aspect of the proposed designation must be received by the closing date.

ADDRESSES: If you wish to comment, you may submit your comments and materials to the Field Supervisor, U.S. Fish and Wildlife Service, New Mexico Ecological Services Field Office, 2105 Osuna NE, Albuquerque, New Mexico, 87113. Copies of the draft Economic Analysis and draft Environmental Assessment are available from the aforementioned address, or over the internet at http://ifw2es.fws.gov/library/. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above Fish and Wildlife Service address.

FOR FURTHER INFORMATION CONTACT: Joy Nicholopoulos, Field Supervisor, New Mexico Ecological Services Field Office, at the above address; telephone 505/346–2525, facsimile 505/346–2542.

SUPPLEMENTARY INFORMATION:

Background

On July 21, 2000, we published in the **Federal Register** a proposed rule to designate critical habitat for the Mexican spotted owl (65 FR 45336). The comment period for the proposed designation closed on September 19, 2000. Section 4(b)(2) of the Endangered Species Act requires that we designate or revise critical habitat based upon the best scientific and commercial data available and after taking into consideration the economic impact, and any other relevant impact, of specifying any particular area as critical habitat. We may exclude an area from critical habitat if we determine that the benefits of excluding the area outweigh the benefits of including the area as critical habitat, provided such exclusion will not result in the extinction of the species. Consequently, we have prepared a draft economic analysis concerning the proposed critical habitat designation, which is available for review and comment at the above Internet and mailing addresses.

Approximately 5.5 million hectares (13.5 million acres) of land fall within the boundaries of the proposed critical habitat in Arizona, Colorado, New Mexico, and Utah. Proposed critical habitat is primarily composed of Federal lands. If this proposal is made final, section 7 of the Act would prohibit destruction or adverse modification of critical habitat by any activity funded, authorized, or carried out by any Federal agency.

Public Comments Solicited

We solicit comments on the draft Economic Analysis described in this notice, the draft Environmental Assessment, and any other aspect of the proposed designation of critical habitat for the Mexican spotted owl. The comment period is extended to November 20, 2000. Written comments may be submitted to the Field Supervisor at the above address. Our final determination on the proposed critical habitat will take into consideration comments and any additional information received by the date specified above. All previous comments and information submitted during the comment period need not be resubmitted.

Author

The primary authors of this notice are the New Mexico Field Office staff (see **ADDRESSES** section).

Authority: The authority for this action is the Endangered Species Act of 1973 (16 U.S.C. 1531 *et seq.*).

Nancy M. Kaufman,

Regional Director, Region 2.

[FR Doc. 00–26976 Filed 10–19–00; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[Docket No.; 000906253-0253-01; I.D. 061500E]

RIN 0648-AL51

Fisheries off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Amendment 14

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: NMFS proposes regulations to implement portions of Amendment 14 to the Fishery Management Plan for Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California (Salmon FMP).

Amendment 14, which was submitted by the Pacific Fishery Management Council (Council) on June 12, 2000, to the Secretary of Commerce (Secretary) for review and approval, brings the Salmon FMP into compliance with the Sustainable Fisheries Act's (SFA) 1996 amendments to the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). Amendment 14 includes designation of essential fish habitat (EFH) and new requirements to reduce bycatch, prevent overfishing, and rebuild overfished stocks. This proposed rule to implement Amendment 14 would make minor changes to language regarding escapement and management goals; implement a new recreational allocation to the Port of La Push and adjust the Neah Bay allocation accordingly; add preseason flexibility for recreational port allocations north of Cape Falcon; and implement preseason flexibility in

setting recreational port allocation or recreational and commercial allocations North of Cape Falcon to take advantage of selective fishing opportunities for marked hatchery fish.

DATES: Comments must be submitted in writing by December 4, 2000.

ADDRESSES: Send comments to Donna Darm, Acting Regional Administrator, Northwest Region, NMFS, 7600 Sand Point Way N.E., Seattle, WA 98115-0070, fax: 206-526-6376; or to Rebecca Lent, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802-4213, fax: 562-980-4018. Send comments regarding any ambiguity or unnecessary complexity arising from the language used in this rule to Donna Darm or Rebecca Lent. Comments will not be accepted if submitted via email or Internet.

Copies of Amendments 14 and the final supplemental environmental impact statement (FSEIS)/regulatory impact review (RIR)/initial regulatory flexibility analysis (IRFA), along with the appendices and the Review of 1999 Ocean Salmon Fisheries are available from Dr. Donald O. McIsaac, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Ave., Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: Christopher L. Wright at 206- 526-6140, Svein Fougner at 562-980-4040, or Dr. Donald O. McIsaac at 503-326-6352.

SUPPLEMENTARY INFORMATION:

Background

The Secretary approved the Salmon FMP under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), 16 U.S.C. 1801 et seq., in 1978. The Council has amended the Salmon FMP 13 times since 1978. The regulations are codified at 50 CFR part 660, subpart H. The Salmon FMP was amended annually from 1979 to 1983; however, in 1984, a framework amendment was implemented that provided the mechanism for making preseason and inseason adjustments in the regulations without annual amendments.

The Council prepared Amendment 14 to the Salmon FMP and submitted it on June 12, 2000, for Secretarial review. NMFS published a notice of availability for Amendment 14 in the Federal Register on June 27, 2000 (65 FR 39584), announcing a 60-day public comment period, which ended on August 28, 2000. NMFS approved Amendment 14 on September 27, 2000.

Amendment 14 has multiple parts. The major parts of the amendment revise the Salmon FMP to bring it into compliance with the 1996 SFA amendments to the Magnuson-Stevens Act; establish a new recreational allocation for the Port of La Push, WA, and add flexibility to deviate from specified recreational Port allocations with the agreement of representatives from the affected Ports; and establish preseason flexibility to deviate from commercial and recreational gear allocations and recreational port allocations North of Cape Falcon, OR in order to access marked hatchery salmon in selective fisheries.

With the approval by the Secretary, Amendment 14 revises the Salmon FMP to bring it into compliance with the 1996 amendments to the Magnuson-Stevens Act. The most significant changes include a new definition of optimum yield (OY); a bycatch definition and new requirements to reduce bycatch; new requirements designed to prevent overfishing and rebuild overfished stocks; and the designation of EFH, with a discussion of threats to EFH and recommended measures to conserve and enhance EFH. A new section in chapter 1 entitled ''What this Plan Covers'' was added to the Salmon FMP to provide a clear description of management actions included in the document. In addition, the amendment provides information on fishery-specific stock impacts and updates the fishery description to reference new appendices.

Only some of the changes made by Amendment 14 are intended to be codified in the regulations. Specifically, this proposed rule would make minor changes to language regarding escapement and management goals; implement a new recreational allocation to the Port of La Push and adjust the Neah Bay allocation accordingly; add preseason flexibility for recreational port allocations North of Cape Falcon; and implement preseason flexibility in setting recreational port allocation or recreational and commercial allocations North of Cape Falcon to take advantage of selective fishing opportunities.

The former Escapement and Management goals section, § 660.410(a), was changed to a new Conservation Objectives section. The SFA amendments require the Council to manage each year to achieve the maximum sustained yield (MSY) or maximum sustainable production (MSP), MSY proxy, or rebuilding schedule. The control rule triggers an overfishing concern when individual stocks fail to meet conservation objectives for three consecutive years (§ 660.410(b)(1)). Conservation objectives are summarized in Table 3-1 of the Salmon FMP.

Amendment 14 establishes a recreational allocation for the La Push Port area separate from the Neah Bay port area, and the Annual Actions section (660.408(c)(v)) would be modified accordingly. The La Push subarea allocation would be set at 5.2 percent, which is approximately 20 percent of the former combined Neah Bay/La Push allocation. This portion is equal to the level provided to La Push during the annual preseason process beginning in 1990. In addition, during years when there is an Area 4B add-on fishery inside Washington internal waters (which benefits only Neah Bay). Twenty-five percent of the numerical value of that fishery shall be added to the recreational allowable ocean harvest north of Leadbetter Point prior to applying the sharing percentages for Westport and La Push. The increase to Westport and La Push will be subtracted from the Neah Bay ocean share to maintain the same total harvest allocation north of Leadbetter Point. Therefore, La Push would receive 2.6 percent of the basic coho allocation plus 1.2 percent of the Area 4B add-on.

Section 660.408(c)(v)(A) would be modified to allow flexibility to deviate from Salmon FMP subarea quotas in order to meet recreational fishery objectives, if those measures are agreed to by representatives of the affected ports. In addition, the regulation would establish a Council process to deviate from the non-Indian recreational and/or commercial allocations north of Cape Falcon to selectively harvest hatchery-produced coho salmon, while not increasing impacts to natural stocks.

Minor changes to the regulatory language in 50 CFR part 660 necessary to implement Amendment 14 would also be made.

Classification

NMFS has determined that Amendment 14 is consistent with the national standards and other provisions of the Magnuson-Stevens Act and other applicable laws.

The Council prepared an Initial Regulatory Flexibility Analysis (IRFA) describing the economic impacts to small entities of all the alternatives considered in the this proposed rule. A copy of the analysis is available from the Council (see ADDRESSES). A summary of the analysis follows:

The proposed rule would make five changes to the existing regulations. Only items 2-5 have regulatory effects that are subject to analysis under Executive Order 12866 and the Regulatory Flexibility Act (RFA). The regulatory changes include:

1. Minor changes to the description of escapement and management goals.

2. Providing a specific recreational allocation to the Port of La Push.

3. Adjusting the recreational port allocations when there is an Area 4B add-on fishery to account for the specific allocation to the Port of La Push.

4. Providing preseason flexibility for recreational port allocations to allow for deviation from subarea allocations to meet recreational objectives, if agreed to by representatives of affected ports.

5. Adding preseason flexibility for setting recreational port allocations, or recreational and commercial allocations North of Cape Falcon, to selectively target hatchery-origin stocks.

All of these changes address management of coho and chinook fisheries that operate in ocean waters north of Cape Falcon, OR to the U.S.-Canada Border (Cape Falcon is south of the Columbia River mouth, between the Ports of Garibaldi and Astoria, OR). Therefore, this proposed rule directly affects the non-tribal commercial troll fisheries and recreational fisheries in these waters. These fisheries are a component of the North of Cape Falcon Forum, in which Federal, state, and Tribal co-managers work directly with commercial and recreational harvesting groups to resolve management and allocation issues involving both ocean and inside salmon fisheries in the region. Inside fisheries occur in Puget Sound, Washington coastal rivers and estuaries, and the Columbia River. Therefore, the Council's decisions concerning these non-tribal fisheries indirectly affect Columbia River, Willapa Bay, and Grays Harbor gillnet fisheries; Puget Sound, Washington coastal and Columbia River tribal fisheries; and Puget sound non-tribal commercial and recreational fisheries. In addition to coho and chinook, these inside fisheries also harvest chum, sockeye, and pink salmon. Management of West Coast ocean salmon fisheries is also subject to international catch sharing agreements because West Coast salmon stocks are among those harvested in Alaska and Canadian salmon fisheries. Salmon harvest allocations and regulations also affect salmon processors and wholesalers, as well as associated support industries including tourism, hotels, bait and tackle shops, and marinas.

The economic effects that these proposed regulations would have are described in the Pacific Fishery Management Council's ''Amendment 14 to the Pacific Coast Salmon Plan (May 2000)'' and supporting documents including ''Appendix B - Description of the Ocean Salmon Fishery and Its Social and Economic Characteristics (August 1999),'' ''Review of 1999 Ocean Salmon Fisheries (February 2000) and ''Amendment 14 to the Pacific Coast Salmon Plan (1997) [Errata].'' A summary of the economic impacts of this proposed rule follows:

A fish harvesting or hatchery business is considered a small business if it is independently owned and operated, it does not dominate its field of operations, and if it has annual receipts that are not in excess of $3 million. For charter/party boats, a small business is one with annual receipts that are not in excess of $5 million. The proposed changes to existing salmon regulations directly affect the operations of non-tribal commercial ocean troll and charter boat vessels. Although total salmon and non-salmon fishery revenue is not discussed, for commercial ocean troll and charter boat sectors the economics of this industry suggest that they are considered small entities under the RFA thresholds for a single firm.

During 1997, the north of Cape Falcon ocean recreational salmon harvest was 31,200 coho and the non-tribal commercial harvest was 0 coho and 6,400 chinook. Ocean recreational private and charter boat trips numbered approximately 102,000 in 1997, and the 57 vessels that participated in the ocean commercial troll fishery landed $1.2 million of salmon. Approximately 82 charter boats operated out of the major ports, including Neah Bay, La Push, Westport, Ilwaco, and Astoria, associated with north of Cape Falcon ocean fisheries. These charter vessels undertook a total of approximately 14,000 angler trips in 1997, and fished for salmon, tuna, bottomfish, sturgeon. About 70 of these vessels are considered salmon charter boats. The combined regional income produced by the north of Cape Falcon salmon fisheries was approximately $2.1 million in 1997. Approximately $200,000 of that amount was generated by commercial trolling, and recreational charter and private boat trips generated the remainder.

The economic effects of the proposed regulations are expected to be generally positive. The proposed regulatory changes are intended to reallocate fish among small entities with the intent of increasing overall harvest. The Port of La Push regulations formalize practices that have been employed for a number of years; La Push would receive 2.6 percent of the basic coho allocation plus 1.2 percent of the Area 4B add-on. Flexibility to deviate from subarea allocations in order to meet recreational objectives is expected to result in only positive economic effects because such management decisions require approval by representatives of affected ports. Flexibility in setting preseason recreational port allocations or recreational and commercial allocations north of Cape Falcon for selective fishing on hatchery stock coho would likely lead to positive economic effects on ocean fisheries because such measures result in increased fishing opportunities when such fish are available. These selective fisheries are open primarily in August and September, although the Council may consider opening selective fisheries at other times. Compared to the original allocation scheme the selective fishery regime does not increase the mortality of natural stocks. Other allocation objectives (*i.e.,* treaty, Indian, or ocean and inside allocations) are addressed during the negotiations in the North of Cape of Falcon Forum.

The general effects of the proposed regulatory changes are to provide flexibility to the Council's decision making processes and allow increased fish harvest levels, when possible, through pre-season allocation setting procedures. User groups (non-tribal ocean troll and ocean recreational fisheries) participate directly in the consultative processes, so it is unlikely that any single group will suffer economically while some or all user groups may benefit. The consultation process is designed to provide the maximum economic benefits to all user groups.

The intended effect of this proposed rule is to employ management measures that minimize impacts to species, stocks, or size/age classes of concern, while maximizing access to harvestable fish. This is accomplished through management measures including gear restrictions, time/area closures, and catch or retention restrictions that allow fishermen to harvest marked hatchery salmon and release natural-origin fish.

Analysis of 1996 fishery information shows that selective ocean coho harvest could be increased by over 300 percent without impacting natural stocks. Without such selective fisheries, total salmon harvest would have to be sharply reduced to protect depressed natural stocks. These procedures also allow managers to make in-season trades between ocean fisheries and other fisheries, and between user groups in order to increase harvest opportunities for all user groups.

Insufficient data preclude a quantitative analysis; however, the Council's qualitative cost-benefit summary in support of Executive Order 12866 assesses the direct and indirect economic effects of the proposed

regulatory changes. This analysis shows that these changes would allow increased numbers of recreational and charter boat salmon fishing trips; however, recreational catch rates and retained catch rates would decline. The ocean troll fishery quotas would not be directly reduced as a result of proposed regulatory changes, but cost per unit of harvest may increase because of the selective fishery regulations. Indirect economic effects on inside fisheries may be positive or negative, depending on which selective fisheries are employed in the ocean and inside fisheries. The State of Washington has adopted selective fishing practices for inside coho fisheries. Selective practices for inside chinook fisheries are still under development because of the difficulty in modeling selective fishery impacts on chinook stocks. However, ocean harvests of inside chinook stocks are minimal and managing such stocks will be primarily driven by Endangered Species Act (ESA) requirements and State of Washington decisions concerning the future of its fisheries.

In developing these regulations the Council tried to minimize impacts on small entities. For example, the Council was aware of the allocative effects of selective fisheries on small entities participating in ocean fisheries, and developed regulations to enhance selective fishing options in August and September. This limits the amount of reallocation between inside and outside fisheries and therefore reduces impacts on such small entities. The public is invited to comment on the IRFA and the economic analysis, whether there are additional economic impacts that should be considered, and whether there are ways to reduce any adverse effects on small entities.

The proposed rule has been determined to be not significant for the purposes of Executive Order 12866.

The NMFS Northwest Region has completed a Section 7 informal consultation under the Endangered Species Act (ESA) on the effects of Amendment 14 on listed salmon stocks. Amendment 14 does not by itself authorize any fishing or other activity that would result in the take of listed fish. It modifies certain aspects of the current Salmon FMP but in no way affects the existing Salmon FMP requirements that management measures comply with NMFS ESA consultation standards for listed species. Three of the Amendment 14 components (overfishing, EFH, and bycatch) will result in neutral effects or in more conservative management of non-listed salmon stocks, and should therefore provide greater protection to natural stocks of listed and non-listed species. While there are some uncertainties regarding the effects of selective fisheries on naturally spawning stocks, NMFS retains the authority and responsibility for ensuring that annual management measures developed under the Salmon FMP comply with ESA consultation standards, and that analysis of these measures is based on the best available science. The remaining elements of the amendment, including recreational allocation, definition of OY, and various editorial changes will have no effect on management of listed stocks.

Based on these considerations, NMFS concluded that Amendment 14 and its implementing regulations are not likely to adversely affect any of the salmon stocks presently listed under ESA or their critical habitat.

The Council prepared an FSEIS for Amendment 14. The FSEIS has been incorporated in the Amendment 14 document and may be obtained from the Council (see **ADDRESSES**). A notice of availability of the FSEIS was published on August 11, 2000 (65 FR 49237).

The President has directed Federal agencies to use plain language in their communications with the public, including regulations. To comply with this directive, we seek public comment on any ambiguity or unnecessary complexity arising from the language used in this rule (see **ADDRESSES**).

List of Subjects in 50 CFR Part 660

Administrative practice and procedure, American Samoa, Fisheries, Fishing, Guam, Hawaiian Natives, Indians, Northern Mariana Islands, Reporting and recordkeeping requirements.

Dated: October 13, 2000.

Clarence Pautzke,

Acting Assistant Administrator, National Marine Fisheries Service.

For the reasons set out in the preamble, NMFS proposes to amend 50 CFR part 660 as follows:

PART 660— FISHERIES OFF WEST COAST STATES AND IN THE WESTERN PACIFIC

1. The authority citation for part 660 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 660.402, the definition ''Pacific Coast Salmon Plan'' is added in alphabetical order to read as follows:

§ 660.402 Definitions.

* * * * *

Pacific Coast Salmon Plan (PCSP or Salmon FMP) means the Fishery Management Plan, as amended, for commercial and recreational ocean salmon fisheries in the Exclusive Economic Zone (EEZ)(3 to 200 nautical miles offshore) off Washington, Oregon, and California. The Salmon FMP was first developed by the Pacific Fishery Management Council (PFMC or Council) and approved by the Secretary in 1978. The Salmon FMP was amended on October 31, 1984, to establish a framework process to develop and implement fishery management actions. Other names commonly used include: Pacific Coast Salmon Fishery Management Plan, West Coast Salmon Plan, West Coast Salmon Fishery Management Plan.

* * * * *

3. In § 660.408, the first two sentences in paragraph (c)(1)(ii), paragraph (c)(1)(v), paragraph (c)(1)(v)(A), and the last sentence in paragraph (c)(1)(vi) are revised; paragraph (c)(1)(viii) is redesignated as paragraph (c)(1)(ix), and paragraph (c)(1)(ix) is redesignated as paragraph (c)(1)(x) and a new paragraph (c)(1)(viii) is added to read as follows:

§ 660.408 Annual actions.

* * * * *

(c) * * *

(1) * * *

(ii) *Deviations from allocation schedule.* The initial allocation may be modified annually in accordance with paragraphs (c)(1)(iii) through (viii) of this section. These deviations from the allocation schedule provide flexibility to account for the dynamic nature of the fisheries and better achieve the allocation objectives and fishery allocation priorities in paragraphs (c)(1)(ix) and (x) of this section. * * *

* * * * *

(v) *Recreational allocation.* The recreational allowable ocean harvest of chinook and coho derived during the preseason allocation process will be distributed among the four major recreational subareas as described in the coho and chinook distribution in this section. The Council may deviate from subarea quotas to meet recreational season objectives based on agreement of representatives of the affected ports and/or in accordance with Section 6.5.3.2 of the Pacific Coast Salmon Plan with regard to certain selective fisheries. Additionally, based upon the recommendation of the recreational Salmon Advisory Subpanel representatives for the area north of Cape Falcon, the Council will include criteria in its preseason salmon management recommendations to guide any inseason transfer of coho among the

recreational subareas to meet recreational season duration objectives.

(A) *Coho distribution.* The preseason recreational allowable ocean harvest of coho north of Cape Falcon will be distributed to provide 50 percent to the area north of Leadbetter Point and 50 percent to the area south of Leadbetter Point. In years with no fishery in Washington State management area 4B, the distribution of coho north of Leadbetter Point will be divided to provide 74 percent to the subarea between Leadbetter Point and the Queets River (Westport), 5.2 percent to the subarea between Queets River and Cape Flattery (La Push), and 20.8 percent to the area north of the Queets River (Neah Bay). In years when there is an Area 4B (Neah Bay) fishery under state management, 25 percent of the numerical value of that fishery shall be added to the recreational allowable ocean harvest north of Leadbetter Point prior to applying the sharing percentages for Westport and La Push. The increase to Westport and La Push will be subtracted from the Neah Bay ocean share to maintain the same total harvest allocation north of Leadbetter Point. Each of the four recreational port area allocations will be rounded to the nearest hundred fish, with the largest quotas rounded downward if necessary to sum to the preseason recreational allowable ocean harvest of coho north of Cape Falcon.

* * * * *

(vi) *Inseason trades and transfers.* * * * Inseason trades or transfers may vary from the guideline ratio of four coho to one chinook to meet the allocation objectives in paragraph (c)(1)(ix) of this section.

* * * * *

(viii) *Selective Fisheries.* Deviations from the initial gear and port area allocations may be allowed to implement selective fisheries for marked salmon stocks as long as the deviations are within the constraints and process specified in Section 6.5.3.2 of the *Pacific Coast Salmon Plan.*

* * * * *

4. In § 660.410, the section heading, paragraphs (a) and (b)(1) are revised to read as follows:

§ 660.410 Conservation objectives.

(a) The conservation objectives are summarized in Table 3-1 of the Pacific Coast Salmon Plan.

(b) * * *

(1) A comprehensive technical review of the best scientific information available provides conclusive evidence that, in the view of the Council, the Scientific and Statistical Committee, and the Salmon Technical Team, justifies modification of a conservation objective; except that the 35,000 natural spawner floor for Klamath River fall chinook may only be changed by FMP amendment.

* * * * *

[FR Doc. 00–26935 Filed 10–19–00; 8:45 am]

BILLING CODE: 3510–22 –S

Notices

Federal Register
Vol. 65, No. 204
Friday, October 20, 2000

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections Being Reviewed; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995.

Comments are requested concerning: (a) Whether the proposed or continuing collections of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Submit comments on or before December 19, 2000.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington, DC 20523, (202) 712–1365 or via e-mail bjohnson@usaid. gov.

SUPPLEMENTARY INFORMATION:

OMB NO: OMB 0412–0012.

Form No.: AID 282.

Title: Supplier's Certificate Agreement with the U.S. Agency for International Development Invoice-and-Contract Abstract.

Type of Review: Renewal of Information Collection.

Purpose: The U.S. Agency for International Development (USAID) finances goods and related services under its Commodity Import Program which are contracted for by public and private entities in the countries receiving the USAID Assistance. Since USAID is not a party to these contracts, USAID needs some means to collect information directly from the suppliers of the goods and related services and to enable USAID to take an appropriate action against them in the event they do not comply with the applicable regulations. USAID does this by security from the suppliers, as a condition for the disbursement of funds a certificate and agreement with USAID which contains appropriate representations by the suppliers.

Annual Reporting Burden:

Respondents: 400.

Total annual responses: 2,400.

Total annual hours requested: 1,200 hours.

Dated: October 4, 2000.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 00–27009 Filed 10–19–00; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

Opportunity To Submit Application To Conduct Pilot Project for Harvesting of Biomass From Land Enrolled in the Conservation Reserve Program To Be Used for Energy Production

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Notice of opportunity to submit application.

SUMMARY: Up to six pilot projects, no more than one of which may be in any State, may be authorized for the harvest of biomass from land enrolled in the Conservation Reserve Program (CRP) to be used for energy production. Applications for conducting pilot projects of the harvest of biomass from land enrolled in the CRP for energy production may be submitted to the Commodity Credit Corporation.

DATES: Applications must be postmarked on or before December 19, 2000.

ADDRESSES: Applications will be accepted by the Farm Service Agency (FSA) State Executive Director in the respective State in which the pilot project is proposed to be conducted. State FSA office addresses are provided in Exhibit 1.

FOR FURTHER INFORMATION CONTACT: Beverly Preston, Agricultural Program Specialist, Conservation Programs Branch, Conservation and Environmental Programs Division, FSA, at (202) 720–9563.

SUPPLEMENTARY INFORMATION:

General Provisions

Section 769 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Act, 2000 (Pub. L. 106–78), amended Section 1232(a)(7) of the Food Security Act of 1985 to provide new authority to use Conservation Reserve Program land for pilot biomass projects. Specifically, Section 769 provided that the Secretary shall approve not more than six projects, no more than one of which may be in any State, under which land subject to the contracts may be harvested for recovery for biomass used in energy production if: (i) No acreage subject to the contract is harvested more than once every other year and (ii) not more than 25 percent of the total acreage enrolled in the program in any crop reporting district (as designated by the Secretary) is harvested in any 1 year. The statute specified that no portion of the crop on the pilot land could be used for any commercial purpose other than energy production from biomass, and instructed the Secretary that this allowance would not include the harvesting of any wetland, or any acreage of any type enrolled in a partial field conservation practice (including riparian forest buffers, filter strips, and buffer strips). It was also specified in the statute that the owner or operator must agree to a CRP payment reduction in an amount determined by the Secretary, and that the total acres for all of the projects could not exceed 250,000 acres.

This notice sets out the terms under which pilot projects will be considered and the questions that must be answered on the application so that a considered choice may be made in choosing which projects to approve. The conditions set on the application process, as set forth in this notice, generally follow the terms of the statute.

However, as set forth in this notice, it is proposed here that individual pilot projects will not generally be approved if they exceed 50,000 acres. This limit would allow for a diversity of projects to be approved and thus encourage the benefits of the pilot project. Also, this notice specifies that land which is committed to certain CRP practices cannot, generally, be included in the pilot project, as in certain cases the loss of conservation benefits would be too great. Finally, as specified in this notice, pilot projects will not be approved except upon the understanding, as set forth in this notice, that the individual CRP participants participating in the project agreed to a 25 percent reduction of the annual rental payment they would normally receive in the CRP for each year in which the acreage is harvested; this reduction is designed to offset any loss in conservation benefits which the CCC might otherwise have received under the participant's original CRP contract, and also reflects anticipated financial benefits which the participants in any pilot programs may realize as a result of such harvesting. While the terms of the program as outlined here reflect the current view of the agency as to how the program should operate and the limitations which should apply, members of the public are free in their submissions to suggest that the limitations, to the extent that they are not statutory, should not apply or, for that matter, that other limitations should apply.

Regulatory Authority: The CRP is administered under the regulations at 7 CFR part 1410.

Acreage Limitation: Pilot projects approved under this authority may not exceed, in the aggregate, 250,000 acres, and an individual pilot project may not exceed 50,000 acres, unless approved by CCC.

Length of Pilot Project: Pilot projects must be conducted for a minimum period of 10 years.

Eligible Land: All land enrolled in the CRP, subject to other restrictions outlined here, is eligible to be included in a pilot project except for land: devoted to field windbreaks, waterways, shallow water areas for wildlife, contour grass strips, shelter belts, living snow fences, permanent vegetation to reduce salinity, salt tolerant vegetative cover, filter strips, riparian buffers, wetland restoration, and cross wind trap strips; within an approved public wellhead protection area not to exceed a radius of 2,000 feet from an approved public wellhead; with an erodibility index of more than 15; within 1,000 feet of a stream or other waterbody; or, considered a wetland under 7 CFR part 12.

Biomass Harvest Provisions: Not more than 25 percent of the total acreage enrolled in the CRP in any National Agricultural Statistics Service (NASS) Crop Reporting District may be harvested using this pilot project authority in any 1 year. NASS Crop Reporting Districts are attached as Exhibit 2.

No portion of the harvested crop may be used for any purpose other than energy production from biomass. Participants are responsible for the restoration, at their own expense, of any cover damaged by harvesting, including reseeding if necessary.

Payment Reduction During Harvest: To be approved for this pilot project, CRP participants must agree to a reduction in the CRP annual rental payment equal to 25 percent of the annual rental payment for each year in which the acreage is harvested.

Definitions

The following definitions are applicable to applications to conduct a pilot project for the harvest of biomass from land enrolled in the CRP to be used for energy production:

Biomass means any eligible vegetative cover that is an approved cover for use in the Conservation Reserve Program.

Crop reporting district means those areas defined as NASS Crop Reporting Districts.

Harvest means the cutting of the biomass cover regardless of removal or use.

Required Application Information

Applications for pilot projects must be submitted to the State Executive Director of the State FSA office where the proposed pilot project is to be conducted and must provide, at a minimum, all of the following information:

Proposed Pilot Project General Information

1. Name.

2. Location (State and county or counties).

3. Size (total acres) and extent including map.

4. Physical features including soil, geology, plant, and animal resources.

5. Distance to biomass facility.

Biomass Facility Information

6. Name.

7. Location.

8. Logistical issues (roads, bridges, etc.).

Project Area Description

9. The specific type(s) and variety of cover proposed to be harvested.

10. Assurances to ensure that all harvesting limitations will not be exceeded.

11. Assurances that the cover will be reseeded, if applicable, after harvest.

12. How the harvested material will be transported to the energy production facility.

13. An estimate of the time needed from planting of biomass cover to first harvest to the use of harvested material as energy production.

14. A detailed statement of all budgetary outlays for each proposed project.

15. A detailed statement of the expected results of the project.

16. An environmental, social, economic, and environmental justice analysis of the impact of the planting and harvesting and proposed use of the biomass material on erosion control, wildlife and wildlife habitat, water quality, and air quality.

17. How the applicant will provide for protection of cultural resources present on the acreage in the project area.

18. A list of all environmental permits needed to conduct the proposed project and how and when the permits will be obtained.

19. A detailed statement of the goals, including expected completion dates, of the project.

20. A detailed statement outlining the monitoring process of the project, including who will conduct the monitoring process.

21. An analysis of the impact the project may have on regional and local economies, including if the producer participating in the project will receive any compensation, monetary or otherwise, from the harvested biomass.

22. A description of what, if any, public input or comments were elicited or obtained regarding the proposed project.

Energy Use Information

23. The type of energy proposed to be produced from the biomass.

24. How the biomass will be used for energy production, including a comparative analysis of the current energy source and proposed biomass energy source.

25. How and when (time of year) the biomass is proposed to harvested.

26. An estimate of the amount of material that must be harvested to meet the pilot project(s) goals.

Signed at Washington, D.C., on October 12, 2000.

Parks Shackelford,

Executive Vice President, Commodity Credit Corporation.

Exhibit 1

State FSA Office Addresses

Alabama State FSA Office, 4121 Carmichael Road, Suite 600, Montgomery, AL 36106–2872
Alaska State FSA Office, 800 West Evergreen, Suite 216, Palmer, AK 99645–6389
Arizona State FSA Office, 77 East Thomas Road, Suite 240, Phoenix, AZ 85012–3318
Arkansas State FSA Office, Federal Building, Room 3416, 700 West Capitol, Little Rock, AR 72201–3225
California State FSA Office, 430 G Street # 4161, Davis, CA 95616
Colorado State FSA Office, 655 Parfet St., Suite E–305, Lakewood, CO 80215–5517
Connecticut State FSA Office, 88 Day Hill Road, Windsor, CT 06095
Delaware State FSA Office, 1201 College Park Drive, Suite 101, Dover, DE 19904–8713
Florida State FSA Office, 4440 N.W. 25th Pl., Suite 1, Gainesville, FL 32606
Georgia State FSA Office, Federal Building, Room 102, 355 East Hancock Ave., Athens, GA 30603–1907
Hawaii State FSA Office, 300 Ala Moana Blvd., Room 5–112, P.O. Box 50008, Honolulu, HI 96850
Idaho State FSA Office, 9173 W. Barnes, Suite B, Boise, ID 83709–1555
Illinois State FSA Office, 3500 Wabash, P.O. Box 19273, Springfield, IL 62794–9273
Indiana State FSA Office, 5981 Lakeside Blvd., Indianapolis, IN 46278
Iowa State FSA Office, 10500 Buena Vista Court, Des Moines, IA 50322
Kansas State FSA Office, 3600 Anderson Ave., Manhattan, KS 66503–2511
Kentucky State FSA Office, 771 Corporate Dr., Suite 100, Lexington, KY 40503–5478
Louisiana State FSA Office, 3737 Government Street, Alexandria, LA 71302–3395
Maine State FSA Office, 967 Illinois Ave., Bangor, ME 04401
Maryland State FSA Office, 8335 Guilford Rd., Suite E, Columbia, MD 21046
Massachusetts State FSA Office, 445 West Street, Amherst, MA 01002–2994
Michigan State FSA Office, 3001 Coolidge Rd., Suite 350, East Lansing, MI 48823–6321
Minnesota State FSA Office, 375 Jackson Street, Suite 400, St. Paul, MN 55101–1852
Mississippi State FSA Office, 6310 I–55 North, Jackson, MS 39211
Missouri State FSA Office, Suite 225, Parkade Plaza, 601 Bus. Loop 70 West, Columbia, MO 65203
Montana State FSA Office, 10 East Babcock Street, P.O. Box 670, Bozeman, MT 59771–0670
Nebraska State FSA Office, 7131 A Street, Lincoln, NE 68501–7975
Nevada State FSA Office, 1755 E. Plumb Lane, Suite 202, Reno, NV 89502
New Hampshire State FSA Office, 22 Bride St., 4th Floor, Concord, NH 03301–4987
New Jersey State FSA Office, Mastoris Professional Plaza, 163 Rt. 130, Bldg. 2, Suite E, Bordentown, NJ 08505–2249
New Mexico State FSA Office, 6200 Jefferson St., NE, Room 211, Albuquerque, NM 87109
New York State FSA Office, 441 S. Saline St., Suite, 356, 5th Floor, Syracuse, NY 13202–2455
North Carolina State FSA Office, 4407 Bland Road, Suite 175, Raleigh, NC 27609–6296
North Dakota State FSA Office, 1025 28th St., SW, Fargo, ND 58103
Ohio State FSA Office, 540 Federal Building, 200 N. High Street, Columbus, OH 43215
Oklahoma State FSA Office, 100 USDA, Suite 102, Farm Rd. & McFarland St., Stillwater, OK 74074–2653
Oregon State FSA Office, 7620 S.W. Mohawk, Tualatin, OR 97062–8121
Pennsylvania State FSA Office, One Credit Union Place, Suite 320, Harrisburg, PA 17110–2994
Puerto Rico FSA Office, Cobian's Plaza Building—Rm. 301, 1607 Ponce de Leon Ave., Santurce, Puerto Rico 00909–1815
Rhode Island State FSA Office, 60 Quaker Lane, Suite 40, Warwick, RI 02886–0111
South Carolina State FSA Office, 1927 Thurmond Mall, Suite 100, Columbia, SC 29201–2375
South Dakota State FSA Office, 200 Fourth St., SW, Room 308, Huron, SD 57350–2478
Tennessee State FSA Office, 579 U.S. Courthouse, 801 Broadway, Nashville, TN 37203–3816
Texas State FSA Office, 2405 Texas Ave. South, College Station, TX 77840
Utah State FSA Office, P.O. Box 11350, 125 South State Street., 346 Shelburne St., Salt Lake City, UT 84147–0350
Vermont State FSA Office, Executive Square Office Bldg., Rm. 4329, Burlington, VT 05401–4995

[FR Doc. 00–27046 Filed 10–19–00; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Request for Comments; Fuelwood and Post Assessment in Selected States

AGENCY: Forest Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service announces its intention to reinstate a previously approved information collection. The collected information will help the Forest Service project and meet demands for renewable resources as a source for fuelwood and fence posts. Information will be collected from a selected number of residential households and logging contractors in selected States.

DATES: Comments must be received in writing on or before December 19, 2000.

ADDRESSES: All comments should be addressed to Ronald Piva, Forest Inventory and Analysis, North Central Research Station, Forest Service, USDA, 1992 Folwell Ave., St. Paul, MN 55108.

Comments also may be submitted via facsimile to (651) 649–5140 or by email to rpiva@fs.fed.us

The public may inspect comments received at the Forest Service, USDA, North Central Research Station, Room 507, 1992 Folwell Avenue, St. Paul, Minnesota.

FOR FURTHER INFORMATION CONTACT: Ronald Piva, North Central Research Station, at (651) 649–5150.

SUPPLEMENTARY INFORMATION:

Background

The Forest and Rangeland Renewable Resource Research Act of 1978 (16 U.S.C. 1600), (as amended by the Energy Security Act of 1980 (42 U.S.C. 8701)), requires the Secretary of Agriculture to make and keep current a comprehensive survey and analysis of the present and prospective conditions of and requirements for renewable resources from forests and range lands of the United States and of the supplies of such resources, including determination of facts necessary in determination of means to balance demand for and supply of these resources.

Wood was the major source of energy for households in the United States until the 1880s when use of wood for heating fuel began to decline. In 1970, less than 2 percent of households were using wood as a primary source of heating fuel. In order to monitor availability of renewable resources for fuel and energy, the Forest Service monitored production of wood for

household fuel by interviewing residents in rural areas to determine the amount of wood they used for fuel and the frequency of wood harvests from farm woodlots to supply the demand for fuelwood. These surveys were conducted about every 5 to 10 years.

In 1973, fossil fuel prices began to increase and, as a result, in the 1970s and 1980s, more households began to use wood as a source for primary or secondary heating. In 1986, an estimated 5 million households (6 percent) had a working wood stove and 19 million (21 percent) had a working fireplace. Overall, the use of wood as a residential and industrial energy source in the United States tripled in the last 25 years. The frequency of the surveys and the survey data did not reflect the actual use of wood for heating and energy purposes.

Similarly, production of round and split wood posts for farm fencing and other purposes declined from an estimated 900 million posts in 1920 to less than 60 million today. Even though use of round and split wood posts has declined, it is important to continue to monitor the demand for these products and to assess the impact the demand for the products has on the renewable forest resources.

Description of Information Collection

The following describes the information collection to be reinstated:

Title: Residential Fuelwood and Post Assessment, Any State, Year.

OMB Number: 0596–0009.

Expiration Date of Approval: July 2000.

Type of Request: Reinstatement of an information collection previously approved by the Office of Management and Budget.

Abstract: Forest Service personnel at the Northeastern Forest Experiment Station (Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, and West Virginia) and North Central Research Station (Illinois, Indiana, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, North Dakota, South Dakota and Wisconsin) will evaluate the collected information to determine the level of renewable resources used for fuelwood and fence posts by residential households and logging contractors. The collected information will enable land managers to determine what timber to sell for use as fuelwood or fence posts, how well the local forested land will meet the demand for these timber products, and how to project future demands on these renewable natural resources for fuelwood and fence posts.

This survey also will enable Forest Service personnel to determine the types of facilities households use to heat their homes with wood, such as wood burning stoves or fireplaces; the types of land from which the wood will be cut (forestland, such as private forests, State forests, National Forests, or non-forestland, such as wooded strips, narrow windbreaks, urban areas, or yard trees); the condition of the wood that will be cut, that is whether the trees will be dead or alive.

The Forest Inventory and Analysis Work Units at the Northeastern and North Central Research Stations of the Forest Service will collect the information about the quantities and types of trees cut for fuelwood and fence posts in a given year from a sampling of residential and logging contractors located within the geographical area of the Stations. The agency will conduct the survey through telephone interviews.

Respondents will be asked questions that include an estimate of the annual fuelwood consumption in a specific State; the types of burning facilities in the State, such as wood burning stoves or fireplaces; the annual fuelwood and post production in the State; the annual fuelwood and post production from growing stock (forestland trees of commercial value) and non-growing stock sources (cull trees on forest land or trees from non forestland); the annual fuelwood and post production by tree species; the county from which the fuelwood or posts come; and the landowner class from which the fuelwood or posts come, such as public, private, or forest industry lands.

Data gathered in this information collection are not available from other sources.

Estimate of Annual Burden: 0.07 hours.

Type of Respondents: Residential households and logging contractors.

Estimated Annual Number of Respondents: 2,919.

Estimated Annual Number of Responses per Respondent: 1.

Estimated Total Annual Burden on Respondents: 204.

Comment Is Invited

The agency invites comments on the following: (a) Whether the proposed collection of information is necessary for the stated purposes and the proper performance of the functions of the agency, including whether the information will have practical or scientific utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Use of Comments

All comments received in response to this notice, including names and addresses when provided, will become a matter of public record. Comments will be summarized and included in the request for Office of Management and Budget approval.

Dated: October 11, 2000.

Robert Lewis, Jr.,

Deputy Chief for Research & Development.

[FR Doc. 00–27041 Filed 10–19–00; 8:45 am]

BILLING CODE 3410–11–U

DEPARTMENT OF AGRICULTURE

Forest Service

Southwest Oregon Province Interagency Executive Committee (PIEC) Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Southwest Oregon PIEC Advisory Committee will meet on October 31, 2000 in North Bend, Oregon, at the Coos Bay Bureau of Land Management Office at 1300 Airport Lane. The meeting will begin at 9:00 a.m. and continue until 4:30 p.m. Agenda items to be covered include: (1) Province Implementation Monitoring 2000; (2) Public Comment; (3) Province Large Wood Implementation; (4) Rogue Basin Technical Team Update; (5) BLM Third-Year Monitoring Evaluation; and (6) Current issues as perceived by Advisory Committee members.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Roger Evenson, Province Advisory Committee Coordinator, USDA, Forest Service, Umpqua National Forest, 2900 NW Stewart Parkway, Roseburg, Oregon 97470, phone (541) 957–3344.

Dated: October 16, 2000.

Don Ostby,

Designated Federal Official.

[FR Doc. 00–26975 Filed 10–19–00; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Perry Ridge West (CS–30), Calcasieu Parish, Louisiana

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of Finding of No Significant Impact.

SUMMARY: Pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Regulations (40 CFR Part 1500); and the Natural Resources Conservation Service Regulations (7 CFR Part 650); the Natural Resources Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is not being prepared for Perry Ridge West (CS–30), Calcasieu Parish, Louisiana.

FOR FURTHER INFORMATION CONTACT: Donald W. Gohmert, State Conservationist, Natural Resources Conservation Service, 3737 Government Street, Alexandria, Louisiana 71302, telephone (318) 473–7751.

SUPPLEMENTARY INFORMATION: The environmental assessment of this federally assisted action indicates that the project will not cause significant local, regional, or national impacts on the environment. As a result of these findings, Donald W. Gohmert, State Conservationist, has determined that the preparation and review of an environmental impact statement are not needed for this project.

The purpose of the project is to ensure the stability of the 1,132 acres of interior marsh by providing bank protection of the critical area located along the north GIWW bankline and preventing additional breaching. Another purpose of the project is to create emergent marsh and increase the occurrence of submerged aquatic vegetation in the existing open water areas. The planned works of improvement include the placement of 9,500 linear feet along the north bank of the GIWW from Perry Ridge to the intersection of the Sabine River. An additional 2,200 feet of rock riprap will be installed from the Sabine/GIWW intersection north along the Sabine River. Additionally 17,000 linear feet of terraces will be constructed in the shallow open water areas north of the GIWW.

The notice of a Finding of No Significant Impact (FONSI) has been forwarded to the Environmental Protection Agency and to various federal, state, and local agencies and interested parties. A limited number of copies of the FONSI are available to fill single copy requests at the above address. Basic data developed during the environmental assessment are on file and may be reviewed by contacting Bruce Lehto, Assistant State Conservationist/Water Resources/Rural Development, Natural Resources Conservation Service, 3737 Government Street, Alexandria, Louisiana 71302, telephone (318) 473–7756.

No administrative action on implementation of the proposal will be taken until 30 days after the date of this publication in the **Federal Register**.

(This activity is listed in the Catalog of Federal Domestic Assistance under No. 10.904, Watershed Protection and Flood Prevention, and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials)

Dated: September 21, 2000.

Donald W. Gohmert,

State Conservationist.

[FR Doc. 00–27047 Filed 10–19–00; 8:45 am]

BILLING CODE 3410–16–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Additions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to the Procurement List.

SUMMARY: This action adds to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities.

EFFECTIVE DATE: November 20, 2000.

ADDRESS: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: On September 1, 2000 the Committee for Purchase From People Who Are Blind or Severely Disabled published notices (65 FR 53267) of proposed additions to the Procurement List. After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the services and impact of the additions on the current or most recent contractors, the Committee has determined that the services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4. I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will not have a severe economic impact on current contractors for the services.

3. The action will result in authorizing small entities to furnish the services to the Government.

4. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List.

Accordingly, the following services are hereby added to the Procurement List:

Services

Janitorial/Custodial
Fitness Center, Building 1251, Ellington Field, Houston, TX
Recycling/Recovery Service
McConnell Air Force Base, Kansas

This action does not affect current contracts awarded prior to the effective date of this addition or options that may be exercised under those contracts.

Rita L. Wells,

Deputy Executive Director.

[FR Doc. 00–27042 Filed 10–19–00; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from Procurement List.

SUMMARY: The Committee has received proposals to add to the Procurement List services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete commodities previously furnished by such agencies.

Comments must be received on or before: November 20, 2000.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely

Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Louis R. Bartalot (703) 603–7740.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the possible impact of the proposed actions.

Additions

If the Committee approves the proposed addition, all entities of the Federal Government (except as otherwise indicated) will be required to procure the services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the services to the Government.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for addition to the Procurement List. Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

The following services have been proposed for addition to Procurement List for production by the nonprofit agencies listed:

Commissary Warehousing and Janitorial
United States Naval Academy, Annapolis, MD. NPA: ServiceSource, Inc., Alexandria, Virginia
Eyewear Prescription Service
VA Outpatient Clinic, Port Richey, FL. NPA: Winston-Salem Industries for the Blind, Winston-Salem, North Carolina
Grounds Maintenance
Fort McPherson, Fort McPherson, GA. NPA: WORKTEC, Jonesboro, Georgia
Management Services
Department of Housing & Urban Development, 909 1st Avenue, Suite 200, Seattle, WA. NPA: Pacific Coast Community Services, Truckee, California
Recycling Service
Naval Weapons Station, NAWS Recycling Center, China Lake, CA. NPA: Desert Area Resources and Training, Ridgecrest, California

Deletions

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action will result in authorizing small entities to furnish the services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the services proposed for deletion from the Procurement List.

The following commodities have been proposed for deletion from the Procurement List:

Cleaning Compound
7930–01–398–0945
Detergent, General Purpose
7930–01–393–6761
Enamel
8010–01–332–3739
Stepladder
5440–00–171–9836
5440–00–227–1592
5440–00–227–1593
5440–00–227–1594
5440–00–227–1595
5440–00–227–1596
Stepladder, Fiberglass
5440–01–415–1238
5440–01–415–1240
5440–01–415–1241

Rita L. Wells,

Deputy Executive Director.

[FR Doc. 00–27043 Filed 10–19–00; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213(1999) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity To Request a Review: Not later than the last day of October 2000, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in October for the following periods:

	Period
Antidumping Duty Proceedings	
ITALY: Pressure Sensitive Tape, A–475–059	10/1/99–9/30/00
JAPAN: Steel Wire Rope*, A–588–045	10/1/99–12/31/99
JAPAN: Tapered Roller Bearings, Over 4 Inches*, A–588–604	10/1/99–12/31/99
JAPAN: Tapered Roller Bearings, Under 4 Inches*, A–588–054	10/1/99–12/31/99
JAPAN: Vector Supercomputers, A–588–841	10/1/99–9/30/00
MALAYSIA: Extruded Rubber Thread, A–557–805	10/1/99–9/30/00
PEOPLE'S REPUBLIC OF CHINA: Barium Chloride, A–570–007	10/1/99–9/30/00
THE PEOPLE'S REPUBLIC OF CHINA: Lock Washers, A–570–822	10/1/99–9/30/00
THE PEOPLE'S REPUBLIC OF CHINA: Shop Towels, A–570–003	10/1/99–9/30/00
UNITED KINGDOM: Stainless Steel Sheet and Strip in Coils**, A–412–818	1/4/99–6/30/00
YUGOSLAVIA: Industrial Nitrocellulose*, A–479–801	10/1/99–12/31/99

	Period
Countervailing Duty Proceedings	
BRAZIL: Certain Agricultural Tillage Tools*, C–351–406	1/1/99–12/31/99
INDIA: Iron Metal Castings*, C–533–063	1/1/99–12/31/99
COLOMBIA: Textile & Textile Products*, C–301–401	1/1/99–12/31/99
IRAN: Roasted In-Shell Pistachios, C–507–501	1/1/99–12/31/99
SWEDEN: Certain Carbon Steel Products, C–401–401	1/1/99–12/31/99
Suspension Agreements	
KYRGYZSTAN: Uranium*, A–835–802	10/1/99–12/31/99
RUSSIA: Certain Cut-to-Length Carbon Steel, A–821–808	10/1/99–9/30/00
RUSSIA: Uranium, A–821–802	10/1/99–9/30/00
SOUTH AFRICA: Certain Cut-to-Length Carbon Steel, A–791–804	10/1/99–9/30/00
THE PEOPLE'S REPUBLIC OF CHINA: Certain Cut-to-Length Carbon Steel, A–570–849	10/1/99–9/30/00
THE PEOPLE'S REPUBLIC OF CHINA: Silicomanganese, A–823–805	10/1/99–9/30/00
UKRAINE: Certain Cut-to-Length Carbon Steel, A–823–808	10/1/99–9/30/00
UZBEKISTAN: Uranium*, A–844–802	10/1/99–12/31/99

* Order revoked effective 01/01/2000, as a result of sunset review.
** Inadvertently omitted from 64 FR 45035 (July 20, 2000) opportunity notice.

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of October 2000. If the Department does not receive, by the last day of October 2000, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: October 13, 2000.

Thomas F. Futtner,

Acting Deputy Assistant Secretary, Group II for Import Administration.

[FR Doc. 00–27080 Filed 10–19–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–501]

Natural Bristle Paint Brushes and Brush Heads From the People's Republic of China; Notice of Rescission of Antidumping Duty Administrative Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Notice of rescission of antidumping duty administrative review.

SUMMARY: On March 30, 2000, in response to a request by the Paint Applicator Division of the American Brush Manufacturers Association, petitioner, the Department of Commerce (the Department) initiated an administrative review of the antidumping duty order on natural bristle paint brushes and brush heads from the People's Republic of China (PRC). This review covers two exporters of the subject merchandise, Hebei Animal By-Products Import/Export Corp. (a.k.a Hebei Founder Import & Export Company (Founder)) and Hunan Provincial Native Produce & Animal By-Products Import & Export Corp. (Hunan). The period of review is February 1, 1999 through January 31, 2000. We are now rescinding this review as a result of the absence of shipments and entries from these two companies of subject merchandise during the period of review (POR).

EFFECTIVE DATE: October 20, 2000.

FOR FURTHER INFORMATION CONTACT: Christian Hughes or Maureen Flannery, AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4106 and (202) 482–3020, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the Tariff Act of 1930, as amended, are to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act by

the Uruguay Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department's regulations are to the regulations codified at 19 CFR part 351 (1999).

Scope of Review

Imports covered by this review are shipments of natural bristle paint brushes and brush heads from the PRC. Excluded from the review are paint brushes and brush heads with a blend of 40% natural bristles and 60% synthetic filaments. The merchandise under review is currently classifiable under item 9603.40.40.40 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS subheading is provided for convenience and customs purposes, the Department's written description of the merchandise is dispositive.

Background

On February 14, 2000, the Department published a notice of opportunity to request an administrative review of the antidumping duty order on natural bristle brushes and brush heads from the PRC (65 FR 7348). On February 29, 2000, petitioners in this proceeding requested a review of sales made by Founder and by Hunan during the period February 1, 1999 to January 31, 2000.

On March 30, 2000, the Department initiated an administrative review (65 FR 16875). On April 12, 2000, Founder, and on May 22, 2000, Hunan submitted a certification to the Department that they did not, directly or indirectly, enter for consumption, or sell, export, or ship for entry for consumption in the United States subject merchandise during the period of review. The Department performed a customs query for entries from the PRC classified under HTS number 9603.40.40.40 during the period of review and found no entries of subject merchandise from these parties during that time period. In response to a telephone inquiry, counsel for petitioners stated that they had no information to the contrary. See Memorandum to the File from Christian Hughes: Natural Bristle Paint Brushes and Brush Heads from the People's Republic of China; Hebei Animal By-Products Import/Export Corp. (a.k.a. Hebei Founder Import & Export Company (Founder)) and Hunan Provincial Native Produce & Animal By-Products Import & Export Corp. (Hunan), dated October 6, 2000. Therefore, we have determined that there were no entries into the customs territory of the United States of the subject merchandise during the POR exported by Founder or Hunan.

Rescission of Review

Pursuant to 19 CFR 351.213(d)(3), the Department may rescind an administrative review, in whole or only with respect to a particular exporter or producer, if the Secretary concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise. In light of our determination that neither Founder nor Hunan exported or entered the subject merchandise into the territory of the United States during the POR, we are rescinding this review.

This notice is published in accordance with 19 CFR 351.213(d)(3) and (4).

Dated: October 13, 2000.

Barbara E. Tillman,

Acting Deputy Assistant Secretary for AD/CVD Enforcement Group III.

[FR Doc. 00–27079 Filed 10–19–00; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Judges Panel of the Malcolm Baldrige National Quality Award

AGENCY: National Institute of Standards and Technology, Department of Commerce.

ACTION: Notice of closed meeting.

SUMMARY: Pursuant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Judges Panel of the Malcolm Baldrige National Quality Award will meet Monday, November 13, 2000, 9:00 a.m. to 5:30 p.m.; Tuesday, November 14, 2000, 8:00 a.m. to 5:30 p.m.; Wednesday, November 15, 2000, 8:00 a.m. to 5:30 p.m.; Thursday, November 16, 2000, 8:00 a.m. to 3:00 p.m. The Judges Panel is composed of nine members prominent in the field of quality management and appointed by the Secretary of Commerce. The purpose of this meeting is to review the site visit process, review the final judging process and meeting procedures, and final judging of the 2000 applicants. The review process involves examination of records and discussions of applicant data, and will be closed to the public in accordance with Section 552b(c)(4) of Title 5, United States Code.

DATES: The meeting will convene November 13, 2000 at 9:00 a.m. and adjourn at 3:00 p.m. on November 16, 2000. The entire meeting will be closed.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Building 222, Red Training Room, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Harry Hertz, Director, National Quality Program, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2361.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on March 31, 2000, that the meeting of the Judges Panel will be closed pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94–409. The meeting, which involves examination of records and discussion of Award applicant data, may be closed to the public in accordance with Section 552b(c)(4) of Title 5, United States Code, since the meeting is likely to disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential.

Dated: October 13, 2000.

Raymond G. Kammer,

Director.

[FR Doc. 00–27075 Filed 10–19–00; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091300A]

Small Takes of Marine Mammals Incidental to Specified Activities; Explosives Testing at Eglin Air Force Base, FL

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of application and proposed authorization for a small take exemption; request for comments.

SUMMARY: NMFS has received a request from the U.S. Air Force to take, by harassment, bottlenose dolphins, and spotted dolphins incidental to explosive testing of obstacle and mine clearance systems at Eglin Air Force Base, FL (Eglin). Under the Marine Mammal Protection Act (MMPA), NMFS is requesting comments on its proposal to authorize these takings for a period not to exceed 1 year.

DATES: Comments and information must be received no later than November 20, 2000. Comments will not be accepted if submitted via e-mail or the Internet.

ADDRESSES: Comments on this application should be addressed to Donna Wieting, Chief, Marine Mammal Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910. A copy of the application, the Environmental Assessment (EA), and/or a list of references used in this document, may be obtained by writing to this address or by telephoning one of the contacts listed here.

FOR FURTHER INFORMATION CONTACT: Kenneth Hollingshead 301-713-2055 ext. 128, or Kathy Wang, 727-570-5312.

SUPPLEMENTARY INFORMATION:

Background

Sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 et seq.) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of small numbers of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, a notice of a proposed authorization is provided to the public for review.

Permission may be granted if NMFS finds that the taking will have a negligible impact on the affected species or stock(s) of marine mammals, will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses, and if permissible methods of taking and requirements pertaining to the monitoring and reporting of such takings are set forth. NMFS has defined ''negligible impact'' in 50 CFR 216.103 as ''...an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Subsection 101(a)(5)(D) of the MMPA established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. The MMPA defines ''harassment'' as:

...any act of pursuit, torment, or annoyance which (a) has the potential to injure a marine mammal or marine mammal stock in the wild; or (b) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering.

Subsection 101(a)(5)(D) establishes a 45-day time limit for NMFS review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the comment period, NMFS must either issue or deny issuance of the authorization.

Summary of Request

On August 6, 2000, NMFS received an application from the U.S. Air Force at Eglin. The Air Force, in cooperation with the Naval Surface Warfare Center-Coastal Systems Station (NSWC-CSS), U.S. Navy, is requesting an authorization to take, by harassment and non-serious injury, bottlenose dolphins (*Tursiops truncatus*), and spotted dolphins (*Stenella frontalis*) incidental to explosive testing of an obstacle clearance system at Eglin. Eglin is located in the Florida Panhandle approximately midway between the cities of Pensacola and Panama City, FL. The location of the proposed action is on the beach areas on Santa Rosa Island (SRI), approximately 27 kilometers (km)(17 mi) west of Destin, FL.

The Navy's current capability to clear obstacles and mines in the surf zone is limited to the hand placement of explosive charges by Navy combat swimmers. The effectiveness of this capability is limited by the ability of swimmers to locate submerged targets and to carry sufficient explosives to destroy the targets. Such operations are considered highly hazardous, and the reliability of obstacle removal is considered to be poor. During the Gulf War, U.S. forces were prevented from landing on the beaches of Kuwait because of the nature and density of the mines and obstacles present on the beaches and in the shallow surf zone. To facilitate future amphibious assaults, the U.S. Navy is committed to developing and testing methods to safely and effectively clear a path through such obstacles, allowing U.S. Marines to conduct an amphibious assault.

NWSC-CSS has requested permission from Eglin to test the Mk-82 general purpose bomb (GPB) in the shallow surf zone along U.S. Air Force-controlled lands of SRI. The taking of bottlenose and spotted dolphins incidental to testing the Shallow Water Assault Breaching system, the Distributed Explosive Technology system, the MK-82 GPBs, and the MK-5 Mine Clearance System (MCS) was authorized by NMFS in December, 1998 (see 63 FR 67669, December 8, 1998). That authorization expired on March 31, 1999. However, testing of the Mk-82 GPB was not conducted during that authorization period.

The proposed action by the NSWC-CSS is an evaluation of the Mk-82 GPBs to clear anti-invasion beach obstacles and mines in the surf zone. The objectives of the test are to: (1) determine the performance of the Mk-82 GPBs against threat obstacles and mines in the surf zone, and (2) provide data and verify empirical models used to assess surf zone obstacle and mine clearance.

The MK-82 GPBs to be tested consist of seven GPBs, each containing 192 lbs (87.1 kg) of explosive for a total weight of 1,344 lbs (610 kg). Three configurations for testing will be used for the proposed test: (1) A linear arrangement of seven GPBs spaced 24 ft (7.3 m) apart, located parallel to the shoreline, (2) a linear arrangement of 7 GPBs spaced 24 ft (7.3 m) apart located perpendicular to the shore, and (3) a matrix (2-3-2) arrangement.

Two separate deployments and firings are required to test each configuration. All MK-82s will be buried vertically to approximately one-half length (about 3 ft (0.9 m)) by jetting. The MK-82s will be detonated using approximately 1/4 block of C-4 explosive paced into the aft fuse well. The MK-82s will be detonated simultaneously in 6 ft (1.8 m) of water using remote detonators to detonate the C-4. All Mk-82 GPBs will be placed in shallow water in the surf zone between the shore and the sand bar.

Each test event will require several days to set up. Beach obstacles (log posts, concrete cubes, and steel hedgehogs) and inert mines will be placed around the bombs to serve as targets for bomb fragments and blast. The Mk-82 GPBs will be detonated and the obstacles and mine field scored and cleaned up to the extent feasible.

In order to avoid impacting the endangered West Indian manatee (*Trichiechus manatus*)(which is more commonly found south of the region and during warmer months) and sea turtles, tests are planned to be conducted between November 2000 and March, 2001.

More detailed descriptions of the activity and the expected impact on marine mammals can be found in the Air Force Incidental Harassment (IHA) application. Additional information can be found in the EA prepared in 1998 by the Air Force under the National Environmental Policy Act (NEPA). These documents are available upon request (see **ADDRESSES**).

Description of Habitat and Marine Mammals Affected by the Activity

A description of the eastern Gulf of Mexico (GOM) ecosystems can be found in general biological oceanographic

references and in the previously mentioned EA and is not repeated here.

Marine Mammals

Although approximately 27 species of marine mammals (whales, dolphins and porpoises) reside in or pass through the northeastern GOM, the only species of marine mammals that are likely to be impacted by the activities proposed for the shallow coastal waters off SRI are the bottlenose dolphin (*Tursiops truncatus*) and the Atlantic spotted dolphin (*Stenella frontalis*). Information on these and other species of marine mammals in the GOM can be found in Blaylock et al. (1995) and Waring et al. (1999). Please refer to those documents for information on the biology, distribution, and abundance of these marine mammal species. Information on the two species of marine mammals that potentially may be affected can also be found in the application and EA on this project.

Potential Effects of Explosives on Marine Mammals

Potential impacts to those marine mammal species known to occur in the SRI area from explosives include both lethal and non-lethal injury, as well as incidental harassment. The pressure wave from the explosive can impact air cavities, such as lungs and intestines. Extensive hemorrhaging into the lungs due to underwater shock waves may cause death to a marine mammal through suffocation (Hill, 1978). Other common injuries which may result in mortality include circulatory failure, broncho-pneumonia in damaged lungs, or peritonitis resulting from perforations of the intestinal wall (Hill, 1978). Because impulse levels sufficient to cause lethal injury increase with increased mammal mass (Yelverton *et al.*, 1973), conservative criteria are based on the lowest possible affected mammalian weight (e.g., an infant dolphin). Extensive lung hemorrhage is an injury which would be debilitating, and not all animals would be expected to survive (1 percent mortality is predicted at the onset level). As the severity of extensive lung hemorrhage increases beyond the onset level, gastro-intestinal tract injuries can increase significantly. The expected mortality level associated with these combined severe injuries would be significantly higher than 1 percent (U.S. Navy, 1998).

Non-lethal injuries involve slight lung hemorrhage and tympanic membrane (TM) rupture from which the mammal is expected to recover (Yelverton *et al.*, 1973; Richmond *et al.*, 1973). Eardrum damage criteria are based upon a limited number of small charge tests (Yelverton *et al.*, 1973; Richmond *et al.,* 1973). Ranges for percent TM rupture incurred by underwater explosives can be calculated by a conservative TM damage model (U.S. Navy, 1996). General criteria for TM damage has been reported to occur at impulse levels down to 20 psi-msec (Yelverton *et al.*, 1973).

Because TM rupture, rather than slight lung hemorrhage, usually occurs at lower impulse levels, TM rupture is used by NMFS and others to conservatively define the non-lethal injury zone. A maximum impulse of 10 psi-msec is often considered to define the non-lethal injury zone, where a very low incidence of blast injuries are likely to occur (Yelverton *et al.*, 1973). A level of pressure impulse at which marine mammals are not expected to experience non-lethal injury (nor instantaneous mortality or lethal injury) is reported to be 5 psi-msec (Yelverton *et al.*, 1973). This is the impulse level adopted by the Air Force to designate no injurious takings by its proposed activity.

In addition to lethal, serious, and non-serious injury, harassment of marine mammals may occur as a result of non-injurious physiological responses to an explosion-generated shockwave and its acoustic signature. Based upon information provided in the SEAWOLF shock trial final environmental impact statement (U.S. Navy, 1998), a dual criterion for marine mammal acoustic harassment has been developed for explosive-generated signals: (1) an energy-based temporary threshold shift (TTS) injury criterion of 182 dB re 1 uPa^2-sec derived by the Navy from experiments with bottlenose dolphins by Ridgway *et al.*(1997), and (2) a 12 lbs/in^2 (psi) peak pressure cited by Ketten (1995) as associated with a ''safe outer limit (for the 10,000 lb charge for minimal, recoverable auditory trauma'' (i.e., TTS)). While recognizing that while there is some disagreement in the scientific community on criteria for predicting auditory impacts on marine mammals, for the activity described in this document, the Air Force and NMFS are retaining the determinations made for this action previously (see 63 FR 67669, December 8, 1998), that noise levels that fall between the 5 psi-msec distance out to a transmission distance where a noise level of 180 dB re 1 uPa^2-sec (Air Force, 1998, 2000) will be considered to fall within the incidental harassment zone. It should be recognized however, that because the Air Force utilized the noise level of 180 dB re 1 uPa^2-sec, instead of the previously mentioned level of 182 dB re 1 uPa2-sec, for modeling the proposed test activities, it will use the more precautionary level for estimating potential harassment.

The potential impact to Atlantic bottlenose dolphins and the Atlantic spotted dolphins, the two species that may potentially be affected, was evaluated using modeling on the effects of underwater explosions resulting from each of the test systems described previously (see application). Based upon data provided in the application, the maximum number of Atlantic bottlenose dolphins potentially within the injury exposure zone from all tests during the 4-month test period is estimated to be 27-28. The maximum number of Atlantic spotted dolphins potentially injured from all tests combined is less than 1. These are the maximum potential injury levels without implementation of mitigation.

The estimated total numbers of bottlenose dolphins and spotted dolphins potentially exposed to takes by harassment (because they may be within the area between 5 psi-msec and 180 dB re 1 uPa^2 -sec) are 19 and 1, respectively. However, mitigation is expected to obviate any potential for injury or harassment to marine mammals.

Mitigation

There are two forms of mitigation proposed for implementation by the Air Force: (1) Natural, as provided by the environment and (2) human, designed to protect marine mammals to the greatest extent practicable.

Natural mitigation: Physical characteristics of the proposed test area and test methods will ameliorate the underwater shock wave. Tests will be conducted in approximately 3 to 10 ft (0.9 to 3.0 m) of water. At this shallow depth, some portion of the energy from the detonations will be directed through the surface of the water rather than transmitted through the water. Another consequence of the shallow detonation depth is that bubble pulse is not significant and there will be far less energy in any oscillations, compared with deep water detonations (Shockley, 1995). Additionally, these tests will be conducted inside the offshore bar at the SRI site. The offshore bar ameliorates the transmission of the underwater portion of the shock wave. Also, MK-82 GPBs will be buried in bottom sands to approximately their center of gravity (3 ft (0.9 m)), a factor expected to mitigate the transmission of the shock wave as the detonations will be directed downwards.

Human mitigation: Eglin has established the following safety zones to prevent marine mammal injury for

testing MK-82 GPBs: (1) 6.0 km (3.7 mi) radius for the configuration parallel to beach and for the matrix; and (2) 5.0 km (3.1 mi) radius for the configuration perpendicular to the beach.

Eglin has proposed that base personnel conduct a 30-minute pre-detonation aerial monitoring survey immediately prior to each test to ensure no marine mammals are within the test area's designated safety zone. With water depths less than 18 m (59 ft), low turbidity, and white sand bottom, exceptional marine mammal visibility is ensured. Aerial surveys will be conducted at approximately 100 ft (30.5 m) elevation.

In order to ensure adequate visibility for locating marine mammals (and sea turtles), no detonations will take place if sea state conditions are greater than category 3 and water clarity is not adequate for conducting surveys. No tests will take place if marine mammals or sea turtles are sighted within the safety zone.

Monitoring

In addition to pre-detonation monitoring mentioned previously, Eglin will conduct aerial surveys immediately following each detonation event. The post-test monitoring will be conducted in a similar manner to the pre-test monitoring, except that observation personnel will be focused on locating any injured marine mammals. If any injured marine mammals are observed during post-test monitoring, subsequent detonations will be postponed, and the local stranding network notified. The project will be required to be reviewed by Air Force and NMFS personnel prior to conducting any additional tests.

Reporting

Any takes of marine mammals other than authorized by the IHA will be reported to the Regional Administrator, NMFS, by the next working day. A draft final report of the entire test results and marine mammal observations for pre- and post-detonation monitoring will be submitted to NMFS within 90 days after completion of the last test. Unless notified by NMFS to the contrary, that draft final report will be considered the final report under the IHA.

NEPA

Previously, the U.S. Air Force prepared an EA on the Mk-82 GPB and Mk-5 MCS systems. This EA, which supplements information contained in the Air Force application provides additional information for determining whether the activity proposed for obtaining a small take authorization will have no more than a negligible impact on affected marine mammal stocks. NMFS reviewed the EA in December, 1998, and concurred with the findings in the EA (see 63 FR 67669, December 8, 1998). As a result, NMFS found that it is unnecessary to prepare its own NEPA documentation and adopted the Air Force EA as its own, as provided by 40 CFR 1506.3. At that time, NMFS found that the issuance of an IHA to the Air Force would not result in a significant environmental impact on the human environment and that it is unnecessary to either prepare its own NEPA documentation or to recirculate the Air Force EA for additional comments. NMFS believes that the findings made in December 1998, remain appropriate.

Consultation

On October 15, 1998, NMFS completed consultation with the Air Force under section 7 of the Endangered Species Act. The finding of that consultation was that the proposed testing activity is not likely to adversely affect endangered or threatened species of whales or sea turtles, if the conservation and mitigation measures specified in the Biological Assessment prepared by the Air Force are undertaken. NMFS concludes, therefore, that the issuance of an IHA to the Air Force to take small numbers of bottlenose dolphins, spotted dolphins and possibly other cetacean species by harassment incidental to explosive testing at Eglin is not likely to adversely affect endangered or threatened species of whales or sea turtles.

Proposed Authorization

NMFS proposes to issue an IHA to the U.S. Air Force for the harassment of a small number of bottlenose dolphins and spotted dolphins incidental to testing the Mk-82 GPBs off SRI, Eglin. NMFS has preliminarily determined that, provided the proposed mitigation and monitoring measures are enacted, the short-term impact of testing Mk-82 GPBs for obstacle and mine clearance systems at Eglin has the potential to result in only small numbers of marine mammals being affected, and have no more than a negligible impact on affected marine mammal stocks.

Information Solicited

NMFS requests interested persons to submit ments, information, and suggestions concerning this request (see **ADDRESSES**).

Dated: October 10, 2000.

Art Jeffers,

Deputy Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 00–27077 Filed 10–19–00; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Denying Entry to Textiles and Textile Products Produced in a Certain Company in Indonesia

October 13, 2000.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs directing Customs to deny entry to shipments manufactured in a certain company in Indonesia.

EFFECTIVE DATE: November 19, 2000.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482-3400.

SUPPLEMENTARY INFORMATION:

Authority: Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Executive Order 12475 of May 9, 1984, as amended.

The U.S. Customs Service has conducted on-site verification of textile and textile product production in a number of foreign countries. Based on information obtained through on-site verifications and from other sources, U.S. Customs has informed CITA that certain companies were illegally transshipping, were closed, or were unable to produce records to verify production. The Chairman of CITA has directed the U.S. Customs Service to issue regulations regarding the denial of entry of shipments from such companies (see **Federal Register** notice 64 FR 41395, published on July 30, 1999). In order to secure compliance with U.S. law, including Section 204 and U.S. customs law, to carry out textile and textile product agreements, and to avoid circumvention of textile agreements, the Chairman of CITA is directing the U.S. Customs Service to deny entry to textiles and textile products manufactured by Pt. Pollux Indonesia Textile Industry for two years. Customs has informed CITA that this company was found to have been illegally transshipping, closed, or unable to produce records to verify production.

Should CITA determine that this decision should be amended, such amendment will be published in the Federal Register.

Richard B. Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 13, 2000.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: The U.S. Customs Service has conducted on- site verification of textile and textile product production in a number of foreign countries. Based on information obtained through on-site verifications and from other sources, U.S. Customs has informed CITA that certain companies were illegally transshipping, were closed, or were unable to produce records to verify production. The Chairman of CITA has directed the U.S. Customs Service to issue regulations regarding the denial of entry of shipments from such companies (see directive dated July 27, 1999 (64 FR 41395), published on July 30, 1999).In order to secure compliance with U.S. law, including Section 204 and U.S. customs law, to carry out textile and textile product agreements, and to avoid circumvention of textile agreements, the Chairman of CITA directs the U.S. Customs Service, effective for goods exported on and after November 19, 2000 and extending through November 18, 2002, to deny entry to textiles and textile products manufactured by the Indonesian company, Pt. Pollux Indonesia Textile Industry. Customs has informed CITA that this company was found to have been illegally transshipping, closed, or unable to produce records to verify production.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Richard B. Steinkamp,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 00–26918 Filed 10–19–00; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Science Board; Notice of Advisory Committee Meetings

SUMMARY: The Defense Science Board (DSB) Task Force on High Energy Laser Weapon Systems Applications will meet in closed session on November 14–15, 2000; December 14–15, 2000; January 23–24, 2001; February 21–22, 2001; March 13–14, 2001; April 17–18, 2001; and May 15–16, 2001, at Strategic Analysis Inc., 3601 Wilson Boulevard, Arlington, VA 22201.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Acquisition, Technology & Logistics on scientific and technical matters as they affect the perceived needs of the Department of Defense. At these meetings, the Task Force will review on-going or proposed programs in high energy laser (HEL) applications; examine recent supporting technology advancements and their applications with respect to supporting military HEL weapon system developments; develop potential military and strategic HEL system applications and identify processes required to implement these potentials; determine what needs to be done to weaponize these systems; and assess HEL operational concepts, impacts and limitations, considering legal, treaty and policy issues concerning HEL employment.

In accordance with Section 10(d) of the Federal Advisory Committee Act, P.L. No. 92–463, as amended (5 U.S.C. App. II, (1994)), it has been determined that these Defense Science Board meetings, concern matters listed in 5 U.S.C. 552b(c)(1) (1994), and that accordingly these meetings will be closed to the public.

Dated: October 12, 2000.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 00–27015 Filed 10–19–00; 8:45 am]

BILLING CODE 5001–10–M

DEPARTMENT OF DEFENSE

Department of the Army

Proposed Collection; Comment Request

AGENCY: Deputy Chief of Staff for Personnel (DAPE–ZXI–RM), DoD.

ACTION: Notice.

In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Department of the Army announces a proposed public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by December 19, 2000.

ADDRESSES: Written comments and recommendations on the proposed information collection should be sent to, U.S. Army Corps of Engineers IRWR, Waterborne Commerce Statistics Center, P.O. Box 61280, New Orleans, Louisiana 70161–1280, ATTN: CEWRC–NDC–CQ, (Jay A. Wieriman). Consideration will be given to all comments received within 60 days of the date of publication of this notice.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection or to obtain a copy of the proposal and associated collection instruments, please write to the above address, or call Department of the Army Reports clearance officer at (703) 614–0454.

Title, Associated Form, and OMB Number: Description of Vessels, Description of Operations, ENG Form 3931, and 3932, OMB Control Number 0710–0009.

Needs and Uses: The publication Waterborne Transportation Lines of the United States, Volume 1, 2, and 3 contain information on the vessel operator and their American Flag vessels operating or available for operation on the inland waterways of the United States in the transportation of freight and passengers.

Affected Public: Business or other for profit.

Annual Burden Hours: 2,000.

Number of Respondents: 2,500.

Responses Per Respondent: 1.

Average Burden Per Response: 48 minutes.

Frequency: Mandatory.

SUPPLEMENTARY INFORMATION: The data is also used by the U.S. Coast Guard and other Federal and State agencies involved in transportation. If this data

collection effort is not permitted, accurate U.S. Flag fleet statistics will not be available for use by the Corps of Engineers and other agencies.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 00–27065 Filed 10–19–00; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army

Availability of the Revised Draft Environmental Impact Statement (DEIS) for the Proposed Sauquoit Creek Flood Control Project at Whitesboro, NY

AGENCY: U.S. Army Corps of Engineers—New York District Department of the Army, Department of Defense.

ACTION: Notice of availability.

SUMMARY: In accordance with Section 205 of the Flood Control Act of 1948, the New York District Office of the Corps of Engineers proposes to provide flood protection for the town of Whitestown through modification of the Sauquoit Creek. The Corps has identified a history of frequent and serious flooding along the Sauquoit Creek in the town of Whitestown. The flooding is caused by both fluvial and ice-jam related events. The project extends from the entrance ramp of Route 5A to 1,000 feet above the confluence of Sauquoit Creek with the Mohawk River. The total length of the channel modification is approximately 1 mile ending with a 2,000 foot long V notch pilot channel. The channel modifications include widening, realigning and deepening along with construction of a low flow channel within the main channel. Bioengineering techniques will be utilized to stabilize the channel. The V notch pilot channel will serve to provide a smooth transition between the channel modifications and the natural streambed. The plan prevents damages from fluvial events up to the 25-year level.

DATES: Written comments received within 45 days of the publication of the Environmental Protection Agency's Notice of Availability will be considered by the Corps in preparing the Final EIS.

FOR FURTHER INFORMATION CONTACT: Address: New York District Corps of Engineers, CENAN–PL–ES, 26 Federal Plaza, New York NY 10278–0090.

Project Planner, Joseph Redican, Attn: CENAN–PL–FB, (202) 264–1060

Project Biologist, Kimberly Rightler, Attn: CENAN–PL–ES, (202) 264–9846

SUPPLEMENTARY INFORMATION: A Draft Environmental Impact Statement (DEIS) was filed in the **Federal Register** April 14, 1986. A Detailed Project Report comprised of a main report containing basic objectives, a final environmental impact statement (FEIS) and supporting documentation with the Sauquoit Creek project was completed in June 1986 and revised October 1987, but was never published in the **Federal Register** nor had a Record of Decision prepared.

Various structural and nonstructural alternatives to minimize flooding and ice jams were originally considered. Three plans were studied in detail (40, 50, 60 foot Channel Plan). The 60 Foot Channel Plan (Plan D3a) was designated the preferred plan by the New York District for its high benefits compared with its costs. The Plan consisted of channel modifications such as realignment, widening, deepening and a riprap armored trapezoidal channel along with constructing a high flow diversion channel connecting Sauquoit Creek to the Mohawk River.

Funding constraints and changes in administration policy delayed proposed implementation of the recommended plan and the FEIS was not filed in the **Federal Register**, pending resolution of these issues. Work resumed on the project in 1995 with the preparation of the plans and specifications phase. Due to the time that has lapsed and the project design changes, an updated draft EIS is necessary. The objective of this revised draft Environmental Impact Statement is to provide a description of the original and current projects, and to account for any potential impacts that may occur from construction disturbances since the original draft statement was written in 1984. Major revisions that have substantially reduced the amount of adverse impacts of the project made since the development of the 1984 DEIS include: (1) Elimination of the diversion channel and opening the culverts under the Conrail Bridge; (2) Incorporating bioengineering methods into the plan in lieu of all rip rap; (3) Installation of a low flow channel and a pilot channel.

Several scoping meetings were held at the time of the original environmental assessment for this project and significant issues related to the project were identified. The changes in the project design have decreased the environmental impacts; therefore an additional scoping meeting was not considered necessary.

Eugene Brickman,

Chief, Plan Formulation Branch.

[FR Doc. 00–27068 Filed 10–19–00; 8:45 am]

BILLING CODE 3710–06–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Availability of A Novel Quantum-Well for Exclusive, Partially Exclusive or Non-Exclusive Licenses

AGENCY: U.S. Army Research Laboratory, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army announces the general availability of exclusive, partially exclusive or non-exclusive licenses relative to a novel quantum-well technology as described in the U.S. Patent #5,579,331; ''Delta-strained quantum-well semiconductor lasers and optical amplifiers''; Shen, *et al.*; November 26, 1996. Licenses shall comply with 35 U.S.C. 209 and 37 CFR 404.

FOR FURTHER INFORMATION CONTACT: Michael D. Rausa, U.S. Army Research Laboratory, Office of Research and Technology Applications, ATTN: AMSRL–CS–TT/Bldg 459, Aberdeen Proving Ground, Maryland 21005–5425, Telephone: (410) 278–5028.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 00–27066 Filed 10–19–00; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Notice of Intent to Grant an Exclusive or Partially Exclusive License to Optical Crossing, Inc.

AGENCY: U.S. Army Research Laboratory, DoD.

ACTION: Notice of intent.

SUMMARY: In compliance with 37 CFR 404 *et seq.,* the Department of the Army hereby gives notice of its intent to grant to Optical Crossings, Inc., a corporation having its principle place of business at 411 N. Central Ave. Suite 70, Glendale, CA 91203, an exclusive or partially exclusive license relative to a patented ARL technology (U.S. Patent # 5,579,331; ''Delta-strained quantum-well semiconductor lasers and optical amplifiers''; Shen, *et al;* November 26,

1996.). Anyone wishing to object to the granting of this license has 60 days from the date of this notice to file written objections along with supporting evidence, if any.

FOR FURTHER INFORMATION CONTACT: Michael D. Rausa, U.S. Army Research Laboratory, Office of Research and Technology Applications, ATTN: AMSRL–CS–TT/Bldg 459, Aberdeen Proving Ground, Maryland 21005–5425, Telephone: (410) 278–5028.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 00–27067 Filed 10–19–00; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Navy

Public Hearing for the Draft Environmental Impact Statement for Replacement Pier and Dredging at Naval Station San Diego, San Diego, CA

AGENCY: Department of Navy, DOD.

ACTION: Notice.

SUMMARY: The Department of the Navy (Navy) has prepared and filed with the United States Environmental Protection Agency (EPA) a Draft Environmental Impact Statement (DEIS) for a Replacement Pier and Dredging at Naval Station (NAVSTA) San Diego, San Diego, California. A public hearing will be held to receive oral and written comments on the DEIS. Federal, state and local agencies, and interested individuals are invited to be present or represented at the hearing.

DATES: The public hearing will be held on November 16, 2000 from 7 p.m. to 10 p.m.

ADDRESSES: The hearing will be held at the Holiday Inn, Terrace Ballroom, 700 National City Boulevard (at 8th Street), National City, California.

FOR FURTHER INFORMATION CONTACT: Grace S. Penafuerte, Naval Facilities Engineering Command, Southwest Division, telephone (619) 556–7773, facsimile (619) 556–8929, or e-mail: *penafuertegs@efdsw.navfac.navy.mil.*

SUPPLEMENTARY INFORMATION: Pursuant to Section 102(2)(c) of the National Environmental Policy Act (NEPA) of 1969, as implemented by the Council on Environmental Quality Regulations (40 CFR Parts 1500–1508), the Navy has prepared and filed with the EPA a DEIS for a replacement pier and dredging at NAVSTA San Diego, California, to support ships currently homeported in the San Diego Naval Complex.

A Notice of Intent for this DEIS was published in the **Federal Register** on May 12, 1999 (64 FR 25480). A public scoping meeting was held in National City, California, on June 9, 1999.

The proposed action includes demolition of two inadequate piers, construction of a new pier, provision for requisite utilities, dredging, and dredged material disposal. The replacement pier would be 120 feet wide and 1,500 feet long with a power intensive electrical supply (19,800 amps at 450 volts). Dredging to 37 feet (11.3 meters) below mean lower low water would be necessary to accommodate modern Navy ships. A total volume of approximately 763,545 cubic yards of sediment would be dredged, of which an estimated 47,966 cubic yards is unsuitable for ocean disposal.

The purpose of the proposed action is to develop a replacement pier to provide berthing, logistics support, and maintenance and utility requirements for ships currently homeported in the San Diego Region. The need for the proposed action is to address the current shortfall in pier infrastructure and capacity in the San Diego Naval Complex.

Two alternatives for pier replacement are considered in the DEIS: (1) Replacement of existing Piers 10 and 11 with a new pier, or (2) replacement of existing Piers 11 and 12 with a new pier. Two alternative pier construction techniques are considered: a pile-supported pier and a mole pier. Dredged material suitable for ocean disposal is proposed to be disposed at the LA–5 Ocean Dredged Material Disposal Site. Sediments unsuitable for ocean disposal are proposed to be dewatered and disposed at an approved upland disposal site. Two dewatering options for unsuitable sediments are evaluated: confined disposal facilities and barge dewatering. Various disposal options for unsuitable dredged sediment are also evaluated, including confined nearshore disposal sites, upland landfill and reclamation sites, and upland reuse areas. The DEIS also considers the No-Action Alternative which is no demolition, no pier construction, and no dredging and disposal.

The DEIS evaluates the environmental effects associated with each of the alternatives and options. Issues addressed in the DEIS include: Water resources, biological resources, topography/geology, air quality, health and safety, land use, noise, transportation, aesthetics, cultural resources, utilities, socioeconomics, and environmental justice. Impact analyses include an evaluation of the direct, indirect, short-term, and cumulative impacts.

No decision on the proposed action will be made until the NEPA process is complete. The decision will be announced when the Secretary of the Navy releases the Record of Decision.

The DEIS has been distributed to various federal, state and local agencies, elected officials, and special interest groups. The DEIS is available for public review at the following public libraries:

National City Public Library, 200 E. 12th Street, National City, California

San Diego Library (Science & Industry Section), 820 E Street San Diego, California.

The Navy will conduct one public hearing to receive oral and written comments concerning the DEIS. A Spanish-language interpreter will be available at the hearing. The public hearing will begin with a brief presentation followed by a request for comments on the DEIS. Federal, state and local agencies, and interested parties are invited to be present or represented at the hearing. Those who intend to speak will be asked to submit a speaker card (available at the door.) Oral comments will be transcribed by a stenographer. To assure accuracy of the record, all statements should be submitted in writing. All statements, both oral and written, will become part of the public record in the study. Equal weight will be given to both oral and written comments. In the interest of available time, each speaker will be asked to limit oral comments to three minutes. Longer comments should be summarized at the public hearing and submitted in writing either at the hearing or mailed to Naval Facilities Engineering Command, Southwest Division, 2585 Callagan Highway, Building 99, San Diego, California 92136–5198 (Attn: Ms. Grace S. Penafuerte, Code 5SPR.GP.) Written comments are requested not later than December 4, 2000.

Dated: October 16, 2000.

J.L. Roth,

Judge Advocate General's Corps, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. 00–27081 Filed 10–19–00; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education

SUMMARY: The Leader, Regulatory Information Management Group, Office

of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 19, 2000.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Leader, Regulatory Information Management Group, Office of the Chief Information Officer, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB.

Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) title; (3) summary of the collection; (4) description of the need for, and proposed use of, the information; (5) respondents and frequency of collection; and (6) reporting and/or Recordkeeping burden. OMB invites public comment.

The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 16, 2000.

John Tressler,

Leader, Regulatory Information Management, Office of the Chief Information Officer.

Office of Elementary and Secondary Education

Type of Review: New collection.

Title: Reading Excellence Act (REA) State-District-School Study (KA).

Frequency: Semi-Annually; Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs (primary).

Reporting and Recordkeeping Hour Burden:

Responses: 2,788

Burden Hours: 8,592.

Abstract: REA provides competitive reading and literacy grants to state education agencies to help high-proverty schools and those in Title I improvement status to: (1) Teach every child to read by the end of the third grade; (2) provide children in early childhood with the readiness skills and support they need to learn to read once they enter school; (3) expand the number of high-quality family literacy programs; (4) provide early intervention to children who are at risk of being identified for special education inappropriately; and (5) base instruction, including tutoring, on scientifically-based reading research. The first cohort of 17 states was funded in the summer of 1999. The REA State-District-School Study fulfills the states' performance reporting requirements.

In addition, the study will: (1) Collect and analyze demographic and descriptive information on REA states, districts and schools in order to provide a contextual backdrop and sampling for two national evaluations—the School and Classroom Implementation and Impact (SCII) study and the Children's Reading Gains (Gains) study; (2) compare eligible but not funded with funded districts and schools; (3) augment the agency's REA monitoring within each State Education Agency (SEA), Local Education Agency (LEA), and school; (4) track performance over time; (5) inform the states' development of indicators of program quality; and (6) provide data for the National Institute for Literacy's effort to disseminate information on effective subgrantee projects.

Requests for copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* or should be addressed to Vivian Reese, Department of Education, 400 Maryland Avenue, SW, Room 4050, Regional Office Building 3, Washington, DC 20202–4651. Requests may also be electronically mailed to the internet address OCIO_IMG_Issues@ed.gov or faxed to 202–708–9346. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be directed to Kathy Axt at her internet address Kathy_Axt@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. 00–26986 Filed 10–19–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF EDUCATION

[CFDA No. 84.210A]

The Native Hawaiian Gifted and Talented Program

AGENCY: Department of Education.

ACTION: Notice inviting applications for new awards for fiscal year (FY) 2001.

Purpose of Program: To support a program for gifted and talented education that is designed to (1) address the special needs of Native Hawaiian elementary and secondary school students who are gifted and talented students; and (2) provide those support services to families of such students that are needed to enable such students to benefit from the program.

Eligible Applicants: Native Hawaiian educational organizations or educational entities with experience in developing or operating Native Hawaiian programs or programs of instruction conducted in the Native Hawaiian language.

Applications Available: October 20, 2000.

Deadline for Transmittal of Applications: December 4, 2000.

Estimated Available Funds: $1.5 million to $2.1 million.

Note: The amount of funds, if any, available under this competition is conditioned upon FY 2001 funds being appropriated for these purposes.

Estimated Range of Awards: $750,000 to $2.1 million.

Estimated Number of Awards: 1

Note: These estimates are projections for the guidance of potential applicants. The Department is not bound by any estimates in this notice.

Project Period: Up to 36 months.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR Parts 74, 75, 77, 79, 80, 81, 82, 86, 97, 98, and 99.

Selection Criteria: The Secretary will use the following selection criteria in 34 CFR 75.210 to evaluate applications under this competition. (The specific selection criteria and factors that will be used in evaluating applications are detailed in the application package.) The maximum score for all of the selection criteria is 100 points.

The maximum points for each criterion is as follows:

(a) Significance—15 points.

(b) Quality of Project Design—35 points.

(c) Quality of Project Personnel—10 points.

(d) Adequacy of Resources—5 points.

(e) Quality of Management Plan—15 points.

(f) Quality of Project Evaluation—20 points.

For Applications and Information Contact: Mrs. Lynn Thomas, Telephone: (202) 260-1541, U.S. Department of Education, 400 Maryland Avenue, SW, FOB6, Room 3C124, Mail Stop 6140, Washington, DC 20202. The e-mail address for

Mrs. Thomas is: lynn_thomas@ed.gov

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternate format (*e.g.*, Braille, large print, audiotape, or computer diskette) on request to the contact person listed above.

Individuals with disabilities may also obtain a copy of the application package in an alternate format on request to the contact person listed above. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Electronic Access To This Document

You may view this document, as well as other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document format (PDF) on the Internet at either of the following sites:
http://ocfo.ed.gov/fedreg.htm
http://www/ed.gov/news.html

To use PDF you must have Adobe Acrobat Reader, which is available free at either of the preceding sites. If you have questions about using PDF, call the U.S. Government Printing Office, toll free, at 1–888–293–6498, or in the Washington, DC area at (202) 512–1530.

Note: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available on GPO Access at:
http://www.access.gpo.gov/nara/index.html

Program Authority: 20 USC 7907.

Dated: October 19, 2000.

Michael Cohen,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 00–27160 Filed 10–19–00; 8:45 am]

BILLING CODE 4000–01–U

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB) Oak Ridge. The Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) requires that public notice of these meeting be announced in the **Federal Register**.

DATES: Wednesday, November 8, 2000 6:00 p.m.—9:30 p.m.

ADDRESSES: Garden Plaza Hotel 215 South Illinois Avenue, Oak Ridge, TN.

FOR FURTHER INFORMATION CONTACT: Dave Adler, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831. Phone (865) 576–4094; Fax (865) 576–9121 or e-mail: *adlerdg@oro.doe.gov.*

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda:

1. A presentation on the ''Revitalization of the Oak Ridge National Laboratory'' will be provided by Mr. Tim Myrick of UT-Batelle.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Dave Adler at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of five minutes to present their comments at the end of the meeting.

Minutes: Minutes of this meeting will be available for public review and copying at the Department of Energy's Information Resource Center at 105 Broadway, Oak Ridge, TN between 7:30 a.m. and 5:30 p.m. Monday through Friday, or by writing to Dave Adler, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831, or by calling him at (865) 576–4094.

Issued at Washington, DC on October 17, 2000.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 00–26994 Filed 10–19–00; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–3457–000]

Badger Generating Company, LLC; Notice of Issuance of Order

October 17, 2000.

Badger Generating Company, LLC (Badger) submitted for filing a rate schedule under which Badger will engage in wholesale electric power and energy transactions at market-basked rates. Badger also requested waiver of various Commission regulations. In particular, Badger requested that the Commission grant blanket approval under 18 CFR Part 34 of all future issuances of securities and assumptions of liability by Badger.

On October 10, 2000, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under Part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Badger should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Badger is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued

approval of Badger's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 9, 2000.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–27023 Filed 10–19–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–3758–000]

Coyote Springs 2, LLC; Notice of Issuance of Order

October 17, 2000.

Coyote Springs 2, LLC (Coyote) submitted for filing a rate schedule under which Coyote will engage in wholesale electric power and energy transactions at market-based rates. Coyote also requested waiver of various Commission regulations. In particular, Coyote requested that the Commission grant blanket approval of 18 CFR part 34 of all future issuances of securities and assumptions of liability by Coyote.

On October 12, 2000, pursuant to delegated authority, the Director, Division of Corporate Applications, Office of Markets, Tariffs and Rates, granted requests for blanket approval under part 34, subject to the following:

Within thirty days of the date of the order, any person desiring to be heard or to protest the blanket approval of issuances of securities or assumptions of liability by Coyote should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214).

Absent a request for hearing within this period, Coyote is authorized to issue securities and assume obligations or liabilities as a guarantor, endorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the applicant, and compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approval of Coyote's issuances of securities or assumptions of liability.

Notice is hereby given that the deadline for filing motions to intervene or protests, as set forth above, is November 13, 2000.

Copies of the full text of the Order are available from the Commission's Public Reference Branch, 888 First Street, NE, Washington, DC 20426. The Order may also be viewed on the Internet at *http://www.ferc.fed.us/online/rims.htm* (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–27022 Filed 10–19–00; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER00–612–001, et al.]

Ameren Services Company, Electric Rate and Corporate Regulation Filings

October 13, 2000.

Take notice that the following filings have been made with the Commission:

1. Ameren Services Company

[Docket No. ER00–612–001]

Take notice that on October 10, 2000, Ameren Services Company (Ameren), on behalf of the Ameren Operating Companies, AmerenUE and Ameren CIPS, tendered for filing a copy of Schedule 4A to the Open Access Transmission Tariff of the Ameren Operating Companies as that Schedule was accepted by letter order of September 18, 2000 in Docket No. ER00–612–000. Schedule 4A has been reformatted to conform with Order No. 614 but with no changes to the text accepted by the Commission.

Ameren seeks an effective date of November 22, 1999 for this reformatted Schedule 4A. Accordingly, Ameren seeks waiver of the Commission's notice requirements.

Copies of the filing have been served on all parties to Docket Nos. ER00–612–000 and ER00–3623–000 and on the Missouri Public Service Commission and the Illinois Commerce Commission.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

2. Southern Company Energy Marketing, L.P.

[Docket No. ER97–4166–008]

Take notice that on October 10, 2000, Southern Company Energy Marketing, L.P., tendered for filing an updated market power study in compliance with the Federal Energy Regulatory Commission's order in Southern Company Energy Marketing L.P., 81 FERC ¶ 61,009 (1997).

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

3. American Electric Power Service Corporation

[Docket No. ER01–67–000]

Take notice that on October 10, 2000, American Electric Power Service Corporation, tendered for filing on behalf of the operating companies of the American Electric Power System (AEP), proposed amendments to the Open Access Transmission Tariff accepted for filing by the Commission in Docket No. ER98–2786–000.

AEP requests waiver of notice to permit an effective date of December 1, 2000, for such amendments.

Copies of the filing have been served upon AEP's transmission customers and the state utility regulatory commissions of Arkansas, Indiana, Kentucky, Louisiana, Michigan, Ohio, Oklahoma, Tennessee, Texas, Virginia and West Virginia.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

4. Jersey Central Power & Light Company Metropolitan Edison Company Pennsylvania Electric Company

[Docket No. ER01–68–000]

Take notice that on October 10, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company tendered for filing notice that effective December 6, 2000, the Service Agreement between GPU Energy, on behalf of Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (jointly referred to as the GPU Operating Companies) and Horizon Energy Company (now PECO Energy Company d/b/a Exelon Energy), dated October 21, 1997 and filed with the Federal Energy Regulatory Commission as Service Agreement No. 87 under FERC Electric Tariff, Original Volume No. 1 is to be canceled.

Notice of the proposed cancellation has been served upon PECO Energy Company d/b/a Exelon Energy.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

5. Jersey Central Power & Light Company Metropolitan Edison Company Pennsylvania Electric Company

[Docket No. ER01–69–000]

Take notice that on October 10, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy), tendered for filing a Notice of Cancellation of the Service Agreement between GPU Energy and DTE Energy Trading, Inc., FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 93.

GPU Energy requests that cancellation be effective December 6, 2000.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

6. Jersey Central Power & Light Company Metropolitan Edison Company Pennsylvania Electric Company

[Docket No. ER01–70–000]

Take notice that on October 10, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy), tendered for filing a Notice of Cancellation of the Service Agreement between GPU Service Corporation and The Cincinnati Gas & Electric Company, PSI Energy, Inc. and Cinergy Services, Inc. (referred to as the Cinergy Operating Companies), FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 42.

GPU Energy requests that cancellation be effective December 6, 2000.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

7. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER01–71–000]

Take notice that on October 10, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy), tendered for filing a Notice of Cancellation of the Service Agreement between GPU Service Corporation and Noram Energy Services, Inc. (now Reliant Energy Services, Inc.), FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 37.

GPU Energy requests that cancellation be effective December 6, 2000.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

8. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER01–72–000]

Take notice that on October 10, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy), tendered for filing a Notice of Cancellation of the Service Agreement between GPU Service Corporation and New York State Electric & Gas Corporation, FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 20. GPU Energy requests that cancellation be effective December 6, 2000.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

9. Jersey Central Power & Light Company, Metropolitan Edison Company, Pennsylvania Electric Company

[Docket No. ER01–73–000]

Take notice that on October 10, 2000, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (individually doing business as GPU Energy), tendered for filing a Notice of Cancellation of the Service Agreement between GPU Service Corporation and Vastar Power Marketing, Inc. (now Southern Company Energy Marketing L.P.), FERC Electric Tariff, Original Volume No. 1, Service Agreement No. 50.

GPU Energy requests that cancellation be effective December 6, 2000.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

10. Cinergy Services, Inc.

[Docket No. ER01–74–000]

Take notice that on October 10, 2000, Cinergy Services, Inc. (Cinergy) tendered for filing a Non-Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (OATT) entered into between Cinergy and MidAmerican Energy Company—Retail (MECR).

Cinergy and MECR are requesting an effective date of September 6, 2000.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

11. Cinergy Services, Inc.

[Docket No. ER01–75–000]

Take notice that on October 10, 2000, Cinergy Services, Inc. (Cinergy) tendered for filing a Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (OATT) entered into between Cinergy and Alliance Energy Services (''Alliance'').

Cinergy and Alliance are requesting an effective date of September 6, 2000.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

12. Cinergy Services, Inc.

[Docket No. ER01–76–000]

Take notice that on October 10, 2000, Cinergy Services, Inc. (Cinergy) tendered for filing a Non-Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (OATT) entered into between Cinergy and Alliance Energy Services (Alliance).

Cinergy and Alliance are requesting an effective date of September 6, 2000.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

13. Cinergy Services, Inc.

[Docket No. ER01–77–000]

Take notice that on October 10, 2000, Cinergy Services, Inc. (Cinergy) tendered for filing a Non-Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (OATT) entered into between Cinergy and MidAmerican Energy Company (MECB).

Cinergy and MECB are requesting an effective date of September 6, 2000.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

14. Cinergy Services, Inc.

[Docket No. ER01–78–000]

Take notice that on October 10, 2000, Cinergy Services, Inc. (Cinergy) tendered for filing a Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (OATT) entered into between Cinergy and MidAmerican Energy Company—Retail (MECR).

Cinergy and MECR are requesting an effective date of September 6, 2000.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

15. Cinergy Services, Inc.

[Docket No. ER01–79–000]

Take notice that on October 10, 2000, Cinergy Services, Inc. (Cinergy)

tendered for filing a Firm Point-To-Point Service Agreement under Cinergy's Open Access Transmission Service Tariff (OATT) entered into between Cinergy and MidAmerican Energy Company (MECB).

Cinergy and MECB are requesting an effective date of September 6, 2000.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

16. California Power Exchange Corporation

[Docket No. ER01–80–000]

Take notice that on October 10, 2000, the California Power Exchange Corporation (CalPX), on behalf of its CalPX Trading Services Division (CTS), filed Amendment No. 5 to the CalPX Trading Services Second Revised Rate Schedule FERC No. 1. The primary purpose of Amendment No. 5 is to streamline Appendix 4 of the Rate Schedule, which contains the Participation Agreement between CTS and its participants. CTS requests an effective date of December 10, 2000, sixty days after the date of this filing. CTS also proposes to clarify that default chargebacks will be billed as administrative fees and proposes a few non-substantive editorial changes.

CTS has served copies of the filing on its participants and on the California Public Utilities Commission and has posted a copy of the filing on its website.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

17. California Power Exchange Corporation

[Docket No. ER01–81–000]

Take notice that on October 10, 2000, the California Power Exchange Corporation (CalPX), tendered for filing its Tariff Amendment No. 20. The purpose of Tariff Amendment No. 20 is to clarify that any default charge backs paid on a pro-rata basis by participants will be included on the invoice as an administrative charge.

CalPX requests an effective date of December 10, 2000.

CalPX states that it has served this filing on its participants and on the California Public Utilities Commission and has posted a copy of the filing on its website.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

18. Pacific Gas and Electric Company

[Docket No. ER01–82–000]

Take notice that on October 10, 2000, Pacific Gas and Electric Company (PG&E), tendered for filing a Notice of Termination of the Settlement Agreement concerning FERC Docket No. ER89–4–000, between Pacific Gas and Electric Company and Northern California Power Agency, on file with the Commission as PG&E Rate Schedule FERC No. 128.

PG&E has requested certain waivers.

Copies of this filing have been served upon the Northern California Power Agency and the California Public Utilities Commission.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

19. Allegheny Power Service Corporation on Behalf of Monongahela Power Company, The Potomac Edison Company, and West Penn Power Company (Allegheny Power)

[Docket No. ER01–84–000]

Take notice that on October 10, 2000, Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power), tendered for filing Service Agreement No. 327 to add Dominion Retail, Inc., to Allegheny Power's Open Access Transmission Service Tariff.

The proposed effective date under the agreement is October 9, 2000.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, and the West Virginia Public Service Commission.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

20. Indianapolis Power & Light Company

[Docket No. ER01–85–000]

Take notice that on October 10, 2000, Indianapolis Power & Light Company (IPL), tendered for filing an executed service agreement for Non-Firm Point-to-Point transmission service with Duke Energy Trading and Marketing, L.L.C., under IPL's Open Access Transmission Tariff. IPL also submits an index of customers.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

21. Pacific Gas and Electric Company

[Docket No. ER01–86–000]

Take notice that on October 10, 2000, Pacific Gas and Electric Company (PG&E), tendered for filing a Service Agreement for Wholesale Distribution Service between The City of Sunnyvale California (Sunnyvale), and Pacific Gas and Electric Company (Service Agreement) pursuant to the PG&E Wholesale Distribution Tariff (WDT).

The Service Agreement facilitates payment of PG&E's costs of designing, constructing, procuring, testing, placing in operation, owning, operating and maintaining the customer-specific facilities requested by Sunnyvale required for service over PG&E's distribution facilities.

PG&E has requested certain waivers.

Copies of this filing have been served upon Sunnyvale and the California Public Utilities Commission.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

22. Green Mountain Power Corporation

[Docket No. ER01–88–000]

Take notice that on October 10, 2000, Green Mountain Power Corporation (GMP), tendered a for filing a notice of cancellation and a service agreement for Vermont Electric Cooperative, Inc., to take service under its Network Integration Transmission Service tariff.

Copies of this filing have been served on each of the affected parties, the Vermont Public Service Board and the Vermont Department of Public Service.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

23. Arizona Public Service Company

[Docket No. ER01–87–000]

Take notice that on October 10, 2000, Arizona Public Service Company (the Company), tendered for filing an informational report on refunds of overbilled amounts to certain wholesale customers through the Company's FERC Fuel Adjustment Clause.

Copies of this filing have been served upon the affected parties as follows:

Customer name	APS–FPC/ FERC rate schedule [1]
Electrical District No. 3 (ED–3)	12
Tohono O'odham Utility Authority	52
Wellton-Mohawk Irrigation and Drainage District (Wellton-Mohawk)	58
Arizona Power Authority (APA)	59
Colorado River Indian Irrigation Project	65
Electrical District No. 1 (ED–1)	68
Town of Wickenburg (Wickenburg)	74
Southern California Edison Company (SCE)	120
Electrical District No. 6 (ED–6)	126
Electrical District No. 7 (ED–7)	128
Electrical District No. 8 (ED–8)	140
Aguila Irrigation District (AID)	141
McMullen Valley Water Conservation and Drainage District (MVD)	142
Tonopah Irrigation District (TID)	143
Harquahala Valley Power District (HVPD)	153
Buckeye Water Conservation and Drainage District (Buckeye)	155
Roosevelt Irrigation District (RID)	158
Maricopa County Municipal Water Conservation District (MCMWCD)	168
City of Williams (Williams)	192
San Carlos Indian Irrigation Project (SCIIP)	201
Maricopa County Municipal WCD at Lake Pleasant (MCMLake)	209

[1] FERC Rate Schedules shown are those that were in effect during the refund period.

the California Public Utilities Commission and the Arizona Corporation Commission.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

24. Madison Gas and Electric Company

[Docket No. ER01–96–000]

Take notice that on October 10, 2000, Madison Gas and Electric Company (MGE), tendered for filing a service agreement under MGE's Market-Based Power Sales Tariff with Tenaska Power Services Company.

MGE requests the agreement be effective on the date it was filed with the FERC.

Comment date: October 31, 2000, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraphs

E. Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of these filings are on file with the Commission and are available for public inspection. This filing may also be viewed on the Internet at http://www.ferc.fed.us/ online/rims.htm (call 202–208–2222 for assistance).

David P. Boergers,

Secretary.

[FR Doc. 00–26957 Filed 10–19–00; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00298; FRL–6746–9]

Asbestos-Containing Materials in Schools Rule and Revised Asbestos Model Accreditation Plan Rule; Request for Comment on Renewal of Information Collection Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA), EPA is seeking public comment and information on the following Information Collection Request (ICR): Asbestos-Containing Materials in Schools Rule and Revised Asbestos Model Accreditation Plan Rule (EPA ICR No. 1365.05, OMB No. 2070–0091). This ICR involves a collection activity that is currently approved and scheduled to expire on May 31, 2001. The information collected under this ICR relates to the detection and management of asbestos in school buildings, thereby protecting the environment and public health. The ICR describes the nature of the information collection activity and its expected burden and costs. Before submitting this ICR to the Office of Management and Budget (OMB) for review and approval under the PRA, EPA is soliciting comments on specific aspects of the collection.

DATES: Written comments, identified by the docket control number OPPTS–00298 and administrative record number AR–227, must be received on or before December 19, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit III. of the **SUPPLEMENTARY INFORMATION**. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–00298 and administrative record number AR–227 in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: *For general information contact*: Barbara Cunningham, Director, Office of Program Management and Evaluation, Office of Pollution Prevention and Toxics (7401), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 554–1404; e-mail address: TSCA-Hotline@epa.gov.

For technical information contact: Tony Baney, National Program Chemicals Division (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 260–3933; fax number: (202) 260–1724; e-mail address: baney.tony@epa.gov.

SUPPLEMENTARY INFORMATION:

I. Does this Action Apply to Me?

You may be potentially affected by this action if you are a local education agency (LEA), e.g., an elementary or secondary school district); an asbestos training provider to schools and educational systems; a state education department or commission; or administer public health programs. Potentially affected categories and entities may include, but are not limited to:

Type of business	SIC codes
Elementary and secondary schools	8211
Schools and educational services, not elsewhere classified (training providers)	8299
Administration of educational programs (State education departments, commissions, and similar educational organizations)	9411
Administration of public health programs	9431

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. Other types of entities not listed in this table could also be affected. The Standard Industrial Classification (SIC) codes are provided to assist you and others in determining whether or not this action might apply to certain entities. If you have any questions regarding the applicability of this action to a particular entity, consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

II. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

A. Electronically

You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. On the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

B. Fax-on-Demand

Using a faxphone call (202) 401–0527 and select item 4083 for a copy of the ICR.

C. In Person

The Agency has established an official record for this action under docket control number OPPTS–00298 and administrative record number AR–227. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the TSCA Nonconfidential Information Center, North East Mall Rm. B–607, Waterside Mall, 401 M St., SW., Washington, DC. The Center is open from noon to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Center is (202) 260–7099.

III. How Can I Respond to this Action?

A. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPPTS–00298 and administrative record number AR–227 on the subject line on the first page of your response.

1. *By mail.* Submit your comments to: Document Control Office (7407), Office of Pollution Prevention and Toxics (OPPT), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: OPPT Document Control Office (DCO) in East Tower Rm. G–099, Waterside Mall, 401 M St., SW., Washington, DC. The DCO is open from 8 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The telephone number for the DCO is (202) 260–7093.

3. *Electronically.* Submit your comments and/or data electronically by e-mail to: oppt.ncic@epa.gov, or mail your computer disk to the address identified in Units III.A.1. and 2. Do not submit any information electronically that you consider to be CBI. Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on standard disks in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPPTS–00298 and administrative record number AR–227. Electronic comments may also be filed online at many Federal Depository Libraries.

B. How Should I Handle CBI that I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit to EPA in response to this document as CBI by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. In addition to one complete version of the comment that includes any information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice. If you have any questions about CBI or the procedures for claiming CBI, please consult the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

C. What Should I Consider when I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

1. Explain your views as clearly as possible.

2. Describe any assumptions that you used.

3. Provide copies of any technical information and/or data you used that support your views.

4. If you estimate potential burden or costs, explain how you arrived at the estimate that you provide.

5. Provide specific examples to illustrate your concerns.

6. Offer alternative ways to improve the collection activity.

7. Make sure to submit your comments by the deadline in this notice.

8. To ensure proper receipt by EPA, be sure to identify the docket control number and administrative record number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

D. What Information is EPA Particularly Interested in?

Pursuant to PRA section 3506(c)(2)(A), EPA specifically solicits comments and information to enable it to:

1. Evaluate whether the proposed collections of information are necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility.

2. Evaluate the accuracy of the Agency's estimates of the burdens of the proposed collections of information.

3. Enhance the quality, utility, and clarity of the information to be collected.

4. Minimize the burden of the collections of information on those who are to respond, including through the use of appropriate automated or electronic collection technologies or other forms of information technology, e.g., permitting electronic submission of responses.

IV. What Information Collection Activity or ICR Does this Action Apply to?

EPA is seeking comments on the following ICR:

Title: Asbestos-Containing Materials in Schools Rule and Revised Asbestos Model Accreditation Plan Rule.

ICR numbers: EPA ICR No. 1365.05, OMB No. 2070–0091.

ICR status: This ICR is currently scheduled to expire on May 31, 2001. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's information collections appear on the collection instruments or instructions, in the **Federal Register** notices for related rulemakings and ICR notices, and, if the collection is contained in a regulation, in a table of OMB approval numbers in 40 CFR part 9.

Abstract: The Asbestos Hazard Emergency Response Act (AHERA) requires LEAs to conduct inspections, develop management plans, and design or conduct response actions with respect to the presence of asbestos-containing materials in school buildings. AHERA also requires States to develop model accreditation plans for persons who perform asbestos inspections, develop management control plans, and design or conduct response actions. This information collection addresses the burden associated with recordkeeping requirements imposed on LEAs by the asbestos in schools rule, and reporting and recordkeeping requirements imposed on States and training providers related to the model accreditation plan rule. Responses to the collection of information are mandatory (see 40 CFR part 763, subpart E). Respondents may claim all or part of a notice confidential. EPA will disclose information that is covered by a claim of confidentiality only to the extent permitted by, and in accordance with, the procedures in TSCA section 14 and 40 CFR part 2.

V. What are EPA's Burden and Cost Estimates for this ICR?

Under the PRA, ''burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal Agency. For this collection it includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

The ICR provides a detailed explanation of this estimate, which is only briefly summarized in this notice. The annual public burden for this collection of information is estimated to average in range between 5.5 hours per respondent and 140 hours per respondent, depending upon the category of respondent. The following is a summary of the estimates taken from the ICR:

Respondents/affected entities: 107,759.

Estimated total number of potential respondents: 107,759.

Frequency of response: On occasion.

Estimated total/average number of responses for each respondent: One.

Estimated total annual burden hours: 2,212,151 hours.

Estimated total annual burden costs: $58,860,737.

VI. Are There Changes in the Estimates from the Last Approval?

There is a net decrease of 155,142 hours (from 2,367,293 hours to 2,212,151 hours) in the total estimated respondent burden compared with that identified in the information collection request most recently approved by OMB. This change reflects changes in the numbers of school buildings containing friable asbestos (adjustment), offset slightly by an increase in the burden that applies to training providers (adjustment).

VII. What is the Next Step in the Process for this ICR?

EPA will consider the comments received and amend the ICR as appropriate. The final ICR package will then be submitted to OMB for review and approval pursuant to 5 CFR 1320.12. EPA will issue another **Federal Register** notice pursuant to 5 CFR 1320.5(a)(1)(iv) to announce the submission of the ICR to OMB and the opportunity to submit additional comments to OMB. If you have any questions about this ICR or the approval process, please contact the technical person listed under **FOR FURTHER INFORMATION CONTACT**.

List of Subjects

Environmental protection, Reporting and recordkeeping requirements.

Dated: October 11, 2000.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides and Toxic Substances.

[FR Doc. 00–27013 Filed 10–19–00; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6886–3]

Agency Information Collection Activities: Proposed Collection; Comment Request; IAQ Practices in Schools Survey

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that EPA is planning to submit the following proposed Information Collection Request (ICR) to the Office of Management and Budget (OMB): IAQ Practices in Schools Survey, EPA ICR Number 1885.01. Before submitting the ICR to OMB for review and approval, EPA is soliciting comments on specific aspects of the proposed information collection as described below.

DATES: Comments must be submitted on or before December 19, 2000.

ADDRESSES: To obtain a copy of the ICR without charge, contact: Mr. John Guevin, Indoor Environments Division,

Office of Radiation and Indoor Air, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW, (6609J), Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Mr. John Guevin by phone at (202) 564–9055 or by e-mail at *guevin.john@epa.gov.*

SUPPLEMENTARY INFORMATION:

Affected entities: Entities potentially affected by this action are all public and private schools operating in the United States during the school year immediately preceding the year in which the survey is conducted.

Title: IAQ Practices in Schools Survey (EPA ICR No. 1885.01). This is a new collection.

Abstract: As part of its authorization under Title IV of SARA, 1986, the Indoor Environments Division (IED) of EPA's Office of Radiation and Indoor Air has been working to promote more effective approaches for preventing, identifying, and solving indoor air quality (IAQ) problems in schools and has developed low-cost guidance entitled IAQ Tools for Schools for that purpose.

The IAQ Practices in Schools Survey will allow EPA to gain information regarding the number of schools that have implemented sound IAQ-management practices, such as those activities recommended in its guidance. These data are essential for measuring the effectiveness of EPA's outreach efforts against the Agency's established GPRA goal. EPA is working towards achieving the implementation of sound IAQ practices in 15 percent, or 16,650, of the nation's public and private schools by 2005. The IAQ Practices in Schools Survey is voluntary.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15.

The EPA would like to solicit comments to:

(i) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(ii) Evaluate the accuracy of the Agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) Enhance the quality, utility, and clarity of the information to be collected; and

(iv) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Burden Statement: EPA estimates the annual public reporting and record keeping burden for this collection of information to be 1.3 hours per mail response and 0.8 hours per telephone response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

This survey effort is expected to cost approximately $27.60 per mail response and $16.95 per telephone response. Respondents will incur no capital or start-up costs, and the only operation and maintenance component of the survey will be the cost to photocopy the survey once completed (if desired).

Dated: October 6, 2000.

Mary T. Smith,

Director, Indoor Environments Division.

[FR Doc. 00–27033 Filed 10–19–00; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–6885–3]

Adequacy Status of Submitted State Implementation Plans (SIP) for Transportation Conformity Purposes: Dallas-Fort Worth (DFW) and Beaumont-Port Arthur (BPA) Attainment Demonstration SIPs for Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of adequacy determination.

SUMMARY: In this notice, the EPA is announcing that the motor vehicle emissions budgets contained in the submitted DFW and BPA Attainment Demonstration State Implementation Plans (SIP) for ozone are adequate for transportation conformity purposes. As a result of this determination, the budgets from the submitted attainment SIPs must be used for transportation conformity determinations in the DFW and BPA areas. The EPA received no public comments.

DATES: These budgets are effective November 6, 2000.

FOR FURTHER INFORMATION CONTACT: Mr. J. Behnam, P.E., The U.S. Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas 75202; telephone (214) 665–7247.

SUPPLEMENTARY INFORMATION:

Transportation conformity is required by section 176(c) of the Clean Air Act. The EPA's conformity rule, 40 CFR part 93, requires that transportation plans, programs, and projects conform to SIPs and establishes the criteria and procedures for determining whether or not they do. Conformity to a SIP means that transportation activities will not produce new air quality violations, worsen existing violations, or delay timely attainment of the national ambient air quality standards. The criteria by which EPA determines whether a SIP's motor vehicle emission budgets are adequate for conformity purposes are outlined in 40 CFR 93.118(e)(4). An adequacy review is separate from EPA's completeness review, and it should not be used to prejudge EPA's ultimate approval of the SIP. Even if we find a budget adequate, the SIP could later be disapproved.

On March 2, 1999, the United States Court of Appeals for the District of Columbia Circuit issued its opinion in *Environmental Defense Fund (EDF)* v. *Environmental Protection Agency,* 167 F.3d 641 (D.C. Cir. 1999), and ruled that budgets contained in submitted SIPs cannot be used for conformity determinations unless EPA has affirmatively found the conformity budget adequate. We have described our process for determining the adequacy of submitted SIP budgets in the policy guidance dated May 14, 1999, and titled *Conformity Guidance on Implementation of March 2, 1999 Conformity Court Decision.* You may obtain a copy of this guidance from EPA's conformity web site: http://www.epa.gov/oms/traq (once there, click on ''conformity'' and then scroll down) or by contacting us at the address above.

By this notice, we are simply announcing the DFW and BPA adequacy determinations that we have already made. The Governor of Texas

submitted the DFW Attainment Demonstration SIP on April 25, 2000. The Attainment SIP contained the 2007 motor vehicle emissions budgets for VOC (107.60 tons/day) and NO_X (164.30 tons/day) for the DFW ozone nonattainment area. On May 9, 2000, the availability of those budgets was posted on EPA's web site for the purpose of soliciting public comments. The public comment period closed on June 8, 2000, and the EPA did not receive any comments. Also, the Governor submitted additional information on the BPA Attainment Demonstration SIP on April 25, 2000, to supplement the November 15, 1999, initial submission. The Attainment SIP contained the 2007 motor vehicle emissions budgets for VOC (17.22 tons/day) and NO_X (29.94 tons/day) for the BPA ozone nonattainment area. On August 1, 2000, the availability of those budgets was posted on EPA's web site for the purpose of soliciting public comments. The public comment period closed on August 31, 2000, and the EPA did not receive any comments. After the public comment process, we sent a letter, dated September 6, 2000, to the Texas Natural Resource Conservation Commission stating that these budgets are adequate and they must be used for transportation conformity determinations.

Therefore, the budgets contained in the submitted DFW and BPA Attainment SIPs as cited in this notice must be used for transportation conformity by the Metropolitan Planning Organizations in the DFW and BPA areas.

Dated: September 29, 2000.

Myron M. Knudson,

Acting Regional Administrator, Region 6.

[FR Doc. 00–27035 Filed 10–19–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6611–9]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under Section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at (202) 260–5076.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 14, 2000 (65 FR 20157).

Draft EISs

ERP No. D–AFS–F65027–MN Rating LO, Little East Creek Fuel Reduction Project, Plan to Grant Access Across Federal Land to Non-Federal Landowners, Implementation, LaCroix Ranger District, Superior National Forest, Saint Louis County, MN.

Summary: EPA has no objections to the project.

ERP No. D–AFS–K65228–CA Rating EC2, Airport Forest Health Project, Forest Health Improvements through Reduction of Fuel Loads and Fire Hazards and Wildlife Habitat Improvements Implementation, Pacific Ranger District, El Dorado National Forest, El Dorado and Placer Counties, CA.

Summary: EPA expressed concerns regarding purpose and need, the range of alternatives analyzed, and lack of appropriate mitigation for 2.2 miles of new road construction. EPA also recommended consideration of land tenure adjustments to block ownership, and disclosure of potential conflicts with standards and guidelines being developed as part of the Sierra Nevada Forest Plan Amendment process.

ERP No. D–AFS–L65363–OR Rating EC2, Anthony Lakes Mountain Resort Master Development Plan, Upgrading and Additional Development, Approval, Baker Ranger District, Wallowa-Whitman National Forest, Grant, Union and Baker Counties, OR.

Summary: EPA expressed concerns with the potential impacts associated from the addition of snowmobile rentals to the Master Development Plan (MDP). The final EIS should disclose additional information regarding how the number of allowable rentals will be defined in both the MDP and the Special Use Permit.

ERP No. D–AFS–L65364–ID Rating EC2, South Fourth of July Ecosystem Restoration Project, Implementation, Salmon-Cobalt Ranger District, Salmon-Challis National Forest, Lemhi County, ID.

Summary: EPA expressed concerns about water quality, air quality and cumulative effects and requested additional information that would address our concerns.

ERP No. D–BOP–K80042–CA Rating EC2, Lompoc United States Penitentiary (UPS) Construction and Operation of a New High-Security Facility and Ancillary Structures on One of Three Sites located in the City of Lopmoc, Funding, Santa Barbara County, CA.

Summary: EPA expressed concerns regarding lack of information specific to the facility location and the prison industry component of the proposed project. EPA also recommended that all wetlands be avoided on the preferred project site.

ERP No. D–IBR–K39062–00 Rating EC2, Colorado River Interim Surplus Criteria, To Determine Water Surplus for use within the States of Arizona, California and Nevada (from 2001 through 2015), Colorado River Basin, AZ, CA and NV.

Summary: EPA expressed concerns with the minimal evaluation of indirect impacts from use and storage of surplus water and of mitigation measures for direct, indirect, and cumulative effects. The surplus determination should also include more specific requirements for efficient and beneficial use of the declared surplus.

Final EISs

ERP No. F–AFS–J65309–UT Trout Slope East Timber Project, Timber Harvest and Associated Activities, Implementation, Vernal Ranger District, Ashley National Forest, Uintah County, UT.

Summary: EPA's comments and concerns with the draft EIS were adequately addressed, therefore, EPA has no objections with the proposed action.

ERP No. F–AFS–L65348–ID Idaho Panhandle National Forests, Small Sales, Harvesting Dead and Damaged Timber, Coeur d'Alene River Range District, Kootenai and Shoshone Counties, ID.

Summary: EPA's previous concerns were addressed, therefore, EPA has no objection to the action as proposed.

ERP No. F–COE–E39049–FL Improving the Regulatory Process in Southwest Florida for the Review of Applications for the Fill of Wetlands (US Army COE Section 404 Permit), Lee and Collier Counties, FL.

Summary: EPA stated with some substantive changes, the proposed permit review process (assessing the direct, indirect/induced, and cumulative impact(s) on wetland and related systems) can provide effective wetland regulation in southwest Florida.

ERP No. F–FTA–C53004–NY Mid-Harlem Line Third Track Project, Construct a New 2.5 mile Third Track between Fleetwood and Crestwood Stations, Funding, Westchester County, NY.

Summary: EPA continues to lack objections to the proposed action since no significant new issues were raised since the draft EIS.

ERP No. F–USN–C11016–NY Brooklyn Naval Station Disposal and

Reuse, Implementation, King County, NY.

Summary: Previous concerns identified at the draft EIS were satisfactorily addressed in the final EIS, therefore EPA has no objection to the action as proposed.

ERP No. FS–NPS–E61066–FL Big Cypress National Preserve, General Management Plan, Implementation, New Information on the Special Alternative for the Off-Road Vehicle Management Plan, Collier, Dade and Monroe Counties, FL.

Summary: EPA expressed continuing concerns regarding surface water quality.

Dated: October 17, 2000.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 00–27063 Filed 10–19–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6611–8]

Environmental Impact Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 OR www.epa.gov/oeca/ofa

Weekly receipt of Environmental Impact Statements

Filed October 09, 2000 Through October 13, 2000

Pursuant to 40 CFR 1506.9.

EIS No. 000347, Final EIS, NPS, ID, MT, WY, MT, WY, Yellowstone and Grand Teton National Parks and John D. Rockefeller, Jr. Memorial Parkway Winter Use Plan, Implementation, Fremont County, ID, Gallatin and Park Counties, MT and Park and Teton Counties, WY, Due: November 20, 2000, Contact: Clifford Hawkes (303) 969–2262.

EIS No. 000348, Final EIS, FHW, WV, MD, VA, US 522 Upgrade and Improvements Project, From the Virginia State Line through Morgan County to the Maryland State Line, Funding, NPDES and COE Section 404 Permit, Berkeley Springs, Morgan County, WV, Due: December 15, 2000, Contact: Thomas Smith (304) 347–5928.

EIS No. 000349, Draft EIS, AFS, ID, Curfew National Grassland Land and Resource Management Plan, Implementation, Caribou-Targhee National Forest, Oneida County, ID, Due: January 29, 2001, Contact: Jack Blackwell (801) 625–5605.

EIS No. 000350, Final EIS, NPS, KS, Tallgrass Prairie National Preserve General Management Plan, Implementation, Flint Hills Region, Chase County, KS, Due: November 20, 2000, Contact: Steve Miller (316) 273–6034.

EIS No. 000351, Final EIS, NPS, MN, WI, Lower Saint Croix National Scenic Riverway Cooperative Management Plan, Implementation, MN and WI, Due: November 20, 2000, Contact: Michael Madell (608) 441–5600.

EIS No. 000352, Final EIS, BLM, Programmatic EIS—Surface Management Regulations for Locatable Mineral Operation, (43 CFR 3809), Public Land, Due: November 20, 2000, Contact: Paul McNutt (775) 861–6604.

EIS No. 000353, Draft EIS, JUS, WA, Tacoma/Seattle Area Detention Center, Construction and Leasing, Pierce County, WA, Due: December 04, 2000, Contact: Eric Verwers (817) 978–0202.

EIS No. 000354, Draft EIS, FHW, NJ, NJ–52(1) Causeway (known as MacArthur Boulevard) Construction Project, between NJ–9 in Somers Point, Atlantic County to Bay Avenue in Ocean City, Cape May County, Funding, COE Section 404 and 10 Permits, USCG Permit, Atlantic and Cape May Counties, NJ, Due: December 05, 2000, Contact: Gene Amparano (609) 637–4234.

EIS No. 000355, Final EIS, AS, CA, 64-Acre Tract Intermodal Transit Center, Construction and Operation, Lake Tahoe Basin Management Unit, Tahoe City, Placer County, CA, Due: November 20, 2000, Contact: Joe Oden (530) 573–2653.

EIS No. 000356, Draft EIS, FHW, NY, NY–22 Transportation Improvement, from I–684 to north of County Road 65, Doansburg Road, Construction, COE Section 404 Permit, Town of Southeast, Putnam County, NY, Due: December 04, 2000, Contact: Harold J. Brown (518) 431–4127.

EIS No. 000357, Final EIS, COE, MS, TN, MS, TN, Wolf River Ecosystem Restoration, Memphis, Tennessee Feasibility Study, Marshall, Benton and Tippah Counties, MS and Shelby, Fayette and Harderman, TN, Due: November 20, 2000, Contact: Richard Hite (901) 544–0706.

EIS No. 000358, Draft Supplement, BLM, CA, Cadiz Groundwater Storage and Dry-Year Supply Program, Amendment of the California Desert Conservation Area Plan, Additional Information, Groundwater Monitoring and Management Program, Issuance of Right-of-Way Grants and Permits, San Bernardino County, CA, Due: December 04, 2000, Contact: James Williams (909) 657–5390.

EIS No. 000359, Draft EIS, USN, CA, Naval Station (NAVSTA) San Diego Replacement Pier and Dredging Improvements, Construction, Dredging and Dredged Material Disposal, San Diego Naval Complex, San Diego, CA, Due: December 04, 2000, Contact: Grace S. Penafuerte (619) 556–7773.

EIS No. 000360, Draft Supplement, NRC, Generic—License Renewal of Nuclear Plants, Arkansas Nuclear One, Unit 1, COE Section 10 and 404 Permits, Pope County, AR (NUREG–1437), Due: January 04, 2001, Contact: Thomas Kenyon (301) 415–1120.

EIS No. 000361, Draft Supplement, FTA, WA, Central Link Light Rail Transit Project, (Sound Transit), Construction and Operation, Alternative Route Considered, Tukwila Freeway Route, COE Section 10 and 404 Permits, Cities of Tukwila, SeaTac, Seattle, King County, WA, Due: December 04, 2000, Contact: John Witmer (206) 220–4463.

EIS No. 000362, Draft EIS, GSA, DC, Bureau of Alcohol, Tobacco and Firearms National Headquarters Building, Site Acquisition, Design and Construction, Washington, D.C., Due: December 04, 2000, Contact: Dawud Abdur-Rahman (202) 260–3368.

Amended Notices

EIS No. 000320, Draft EIS, AS, AK, Chugach National Forest, Proposed Revised Land and Resource Management Plan, Implementation, Glacier, Seward and Cordora Ranger Districts, Kenai Peninsula Borough, AK, Due: December 14, 2000, Contact: Dave Gibbons (907) 271–2500. Revision of FR notice published on 09/15/2000: CEQ Comment Date corrected from 10/30/2000 to 12/14/2000.

EIS No. 000333, Second Draft Supple, JUS, TX, AZ, NM, CA, Programmatic—Revised Draft Supplemental EIS US Naturalization Service (INS) and US Joint Task Force-Six (JTF–6) Activities Along the US/Mexico Border from Brownsville, Texas to San Diego, California, Due: November 13, 2000, Contact: Eric Verwers (817) 978–0202. Revision of FR notice published on 09/29/2000: Correction of Status from Revised Draft to Revised Draft Supplemental EIS and Title Correction.

Dated: October 17, 2000.

Joseph C. Montgomery,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. 00–27064 Filed 10–19–00; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPP–34223A; FRL–6751–1]

Malathion; Revised Pesticide Risk Assessment; Notice of Public Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA will hold a public meeting to present the revised risk assessment for the organophosphate pesticide malathion to interested stakeholders. This public meeting, called a ''Technical Briefing,'' will provide an opportunity for stakeholders to learn about the data, information, and methodologies that the Agency used in revising its risk assessment for malathion. In addition, representatives of the Department of Agriculture (USDA) will also be present to discuss malathion risks.

DATES: The technical briefing will be held on, November 9, 2000, from 9:00 a.m. to 5:00 p.m.

ADDRESSES: The technical briefing will be held at the Radisson Hotel, Old Town Alexandria, 901 N. Fairfax St., Alexandria, VA 22314, telephone number: (703) 683–6000.

FOR FURTHER INFORMATION CONTACT: By mail: Patricia Moe, Special Review and Registration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (703) 308–8011; e-mail address: moe.patricia@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this Action Apply to Me?

This action applies to the public in general. As such, the Agency has not attempted to specifically describe all the entities potentially affected by this action. The Agency believes that a wide range of stakeholders will be interested in technical briefings on organophosphate pesticides, including environmental, human health, and agricultural advocates, the chemical industry, pesticide users, and members of the public interested in the use of pesticides on food. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of this Document and Other Related Documents?

1. *Electronically*. You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations'', ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

To access information about organophosphate pesticides, you can also go directly to the Home Page for the Office of Pesticide Programs (OPP) at http://www.epa.gov/pesticides/op/. In addition, a brief summary of the malathion revised risk assessment is now available at http://www.epa.gov/pesticides/op/status.htm/, as well as in paper as part of the public version of the official record as described in Unit I.B.2.

2. *In person*. The Agency has established an official record under docket control number OPP–34223A. The official record consists of the documents specifically referenced in this action, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

II. What Action is the Agency Taking?

This document announces the Agency's intention to hold a technical briefing for the organophosphate pesticide, malathion. The Agency is presenting the revised risk assessments for malathion to interested stakeholders. This technical briefing is designed to provide stakeholders with an opportunity to become even more informed about an organophosphate's risk assessment. EPA will describe in detail the revised risk assessment: Including the major points (e.g., contributors to risk estimates); how public comment on the preliminary risk assessment affected the revised risk assessment; and the pesticide use information/data that was used in developing the revised risk assessment. Stakeholders will have an opportunity to ask clarifying questions. In addition, representatives of the USDA will be present to discuss malathion risks.

The technical briefing is part of the pilot public participation process that EPA and USDA are now using for involving the public in the reassessment of pesticide tolerances under the Food Quality Protection Act (FQPA), and the reregistration of individual organophosphate pesticides under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). The pilot public participation process was developed as part of the EPA-USDA Tolerance Reassessment Advisory Committee (TRAC), which was established in April 1998 as a subcommittee under the auspices of EPA's National Advisory Council for Environmental Policy and Technology. A goal of the pilot public participation process is to find a more effective way for the public to participate at critical junctures in the Agency's development of organophosphate pesticide risk assessment and risk management decisions. EPA and USDA began implementing this pilot process in August 1998 in response to Vice President Gore's directive to increase transparency and opportunities for stakeholder consultation.

On the day of the technical briefing, in addition to making copies available at the meeting site, the Agency will also release for public viewing the malathion revised risk assessments and related documents to the Public Information and Records Integrity Branch and the OPP Internet web site that are described in Unit I.B.1. In addition, the Agency will issue a **Federal Register** notice to provide an opportunity for a 60–day public participation period during which the public may submit risk management and mitigation ideas and recommendations and proposals for transition.

List of Subjects

Environmental protection, Chemicals, Pesticides and pests.

Dated: October 12, 2000.

Robert C. McNally,

Acting Director, Special Review and Reregistration Division, Office of Pesticide Programs.

[FR Doc. 00–27012 Filed 10–19–00; 8:45 am]

BILLING CODE 6560–50–S

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority 5 CFR 1320 Authority, Comments Requested

October 10, 2000.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Persons wishing to comment on this information collection should submit comments on or before December 19, 2000.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commissions, Room 1–A804, 445 12th Street, S.W., Washington, DC 20554 or via the Internet to lesmith@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at 202–418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0787.

Title: Implementation of the Subscriber Carrier Selection Changes Provisions of the Telecommunications Act of 1996: Policies and Rules Concerning Unauthorized Changes of Consumers Long Distance Carriers.

Form Number: N/A.

Type of Review: Extension.

Respondents: Business or other for-profit entities.

Number of Respondents: 28,676.

Estimated Time Per Response: 3.83 hours (avg.).

Total Annual Burden: 109,876 hours.

Annual Cost Burden: None.

Frequency of Response: Recordkeeping; On occasion reporting requirements; Third party disclosure.

Needs and Uses: The goal of section 258 is to eliminate the practice of ''slamming'' which is the unauthorized change of a subscriber's preferred carrier. The FCC modified the liability rules that apply when a consumer has paid charges to a slamming carrier. In such instances, the new rules require a slamming carrier to pay out 150% of the collected charges to the authorized carrier, which, in turn, will pay to the consumer 50% of his or her original payment. The Order on Reconsideration sets forth certain notification requirements to facilitate carriers' compliance with the liability rules. The Commission believes these modifications will strengthen the ability of our rules to deter slamming, while addressing concerns raised with respect to its previous administrative procedures.

Fedral Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–27039 Filed 10–19–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Submitted to OMB for Review and Approval

October 11, 2000.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection, as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before November 20, 2000. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Les Smith, Federal Communications Commission, Room 1–A804, 445 12th Street, S.W., Washington, DC 20554 or via the Internet to *lesmith@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collections contact Les Smith at (202) 418–0217 or via the Internet at lesmith@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0298.

Title: Tariffs (Other than Tariff Review Plan), 47 CFR Part 61.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 2,000.

Estimate Time Per Response: 43 hours.

Frequency of Response: Annual, biennial, and on occasion reporting requirements; Third party disclosure.

Total Annual Burden: 682,555.

Total Annual Costs: $1,965,000.

Needs and Uses: 47 CFR Part 61 is designed to ensure that all tariffs filed by common carriers are formally sound, well organized, and provide the FCC and the public with sufficient information to determine the justness and reasonableness as required by the Communications Act of 1934, as amended, of the rates, terms, and conditions in those tariffs.

OMB Control Number: 3060–0771.

Title: Procedure for Obtaining a Special Temporary Authorization in the Experimental Radio Service, 47 CFR 5.61.

Form Number: N/A.

Type of Review: Extension of currently approved collection.

Respondents: Businesses or other for-profit entities; State, Local or Tribal Government.

Number of Respondents: 500.

Estimated Time Per Response: 1 hour.

Total Annual Burden: 500 hours.

Total Annual Cost: None.

Needs and Uses: The commission may issue a special temporary authority (STA) under part 5 of the rules in cases where a need is shown for operation of an authorized station for a limited time only, in a manner other than that specified in the existing authorization, but does not conflict with the Commission's rules. A request for STA may be filed as an informal application.

Federal Communications Commission.

Magalie Roman Salas,

Secretary.

[FR Doc. 00–27040 Filed 10–19–00; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Sunshine Act Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that at 10:20 a.m. on Tuesday, October 17, 2000, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's supervisory and corporate activities.

In calling the meeting, the Board determined, on motion of Vice Chairman Andrew C. Hove, Jr., seconded by Director Ellen S. Seidman (Director, Office of thrift Supervision), concurred in by Director John D. Hawke, Jr. (Comptroller of the Currency), and Chairman Donna Tanoue, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no notice earlier than October 12, 2000, of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting by authority of subsections (c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii) and (c)(9)(B) of the ''Government in the Sunshine Act'' (5 U.S.C. 552b(c)(2), (c)(4), (c)(6), (c)(8), (c)(9)(A)(ii), and (c)(9)(B)).

The meeting was held in the Board Room of the FDIC Building located at 550–17th Street, NW., Washington, DC.

Dated: October 17, 2000.

Federal Deposit Insurance Corporation.

James D. LaPierre,

Deputy Executive Secretary.

[FR Doc. 00–27150 Filed 10–18–00; 12:27 pm]

BILLING CODE 6714–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

Special Executive Session

Date & Time: Wednesday, October 18, 2000, 10:00 a.m.

Place: 999 E Street, N.W., Washington, D.C.

Status: This meeting will be closed to the public pursuant to 11 CFR 2.4(b)(7).

Items to be discussed:

Matters concerning participation in civil actions or proceedings or arbitration.

Person to Contact for Information: Mr. Ron Harris, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Acting Secretary.

[FR Doc. 00–27187 Filed 10–18–00; 2:52 pm]

BILLING CODE 6715–01–M

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

TIME AND DATE: 10 a.m., Wednesday, October 25, 2000.

PLACE: Marriner S. Eccles Federal Reserve Board Building, 20th and C Streets, NW, Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any matters carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Lynn S. Fox, Assistant to the Board; 202–452–3204.

SUPPLEMENTARY INFORMATION: You may call 202–452–3206 beginning at approximately 5 p.m. two business days before the meeting for a recorded announcement of bank and bank holding company applications scheduled for the meeting; or you may contact the Board's Web site at http://www.federalreserve.gov for an electronic announcement that not only lists applications, but also indicates procedural and other information about the meeting.

Dated: October 18, 2000.

Robert deV. Frierson,

Associate Secretary of the Board.

[FR Doc. 00–27116 Filed 10–18–00; 11:00 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[60DAY–01–02]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Disease Control and Prevention (CDC) is providing an opportunity for public comment on proposed data collection projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Assistant Reports Clearance Officer at 404–639–7090.

Comments are invited on: (i) Whether the proposed collection of information is necessary for the proper performance of the functions of the CDC, including whether the information shall have a practical utility; (ii) the accuracy of the agency's estimate of the burden of the proposed collection of information; (iii) ways to enhance the quality, utility, and clarity of the information to be collected; and (iv) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. Send comments to Seleda Perryman, CDC Assistant Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, Georgia 30333. Written comments should be received within 60 days of this notice.

Proposed Project

Information Collection to Establish Community Assistance Panels (CAPs) OMB No.0923–0007—Extension—The Agency for Toxic Substances and Disease Registry (ATSDR) is mandated pursuant to the 1980 Comprehensive Environmental Response Compensation and Liability Act (CERCLA), and its 1986 Amendments, The Superfund Amendments and Reauthorization Act (SARA), to prevent or mitigate adverse human health effects and diminished quality of life resulting from the exposure to hazardous substances into

the environment. To facilitate this effort, ATSDR seeks the cooperation of the community being evaluated through direct communication and interaction. Direct community involvement is required to conduct a comprehensive scientific study and to effectively disseminate specific health information in a timely manner. Also, this direct interaction fosters a clear understanding of health issues that the community considers to be of importance and establishes credibility for the agency. The Community Assistance Panel nominations forms are completed by individuals in the community to nominate themselves or others for participation on these panels. This request is for a 3-year extension of the current OMB approval of the Community Assistance Panel nominations form. There is no cost to respondents.

Respondents	Number of Respondents	Number of responses/ respondent	Avg. burden per response (in hrs.)	Total annualized burden (in hrs.)
General Public	150	1	.1666	25

Dated: October 16, 2000.

Nancy Cheal,

Acting Associate Director for Policy Planning, and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–27048 Filed 10–19–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30DAY–73–00]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–7090. Send written comments to CDC, Desk Officer; Human Resources and Housing Branch, New Executive Office Building, Room 10235; Washington, DC 20503. Written comments should be received within 30 days of this notice.

Proposed Project

Youth Environmental Risk Perception Survey—New—Agency for Toxic Substances and Disease Registry (ATSDR). In 1996, the Agency for Toxic Substances and Disease Registry (ATSDR) launched a child health initiative to investigate knowledge and awareness of environmental hazards among children and youth. ATSDR is designing a new study, Risk Perceptions Among Youth of Environmental Hazards, to evaluate whether an educational intervention influences risk perceptions and knowledge of environmental toxins among middle school-aged students in a large metropolitan area. The results of this study will shed light on the ways young people learn about and use new information on environmental hazards. The results of this study will also be used to develop targeted environmental health education campaigns and improve communication strategies aimed at young people, and inform and guide ATSDR partners who may be planning similar educational interventions.

An educational intervention will be designed and implemented in a school-based setting to see if and how three communication variables influence young people's knowledge and behavior of environmental hazards. The key variables in this study are the source of the message, the contaminant, and the individual's perception of risk. A study population of 360 male and female students will be randomly selected from 7th and 8th grade science classes in a large metropolitan school district. Each study participant will complete two written surveys (*e.g.*, a pre-test and post-test) administered prior to and immediately after listening to risk and hazard information. The results will be evaluated to determine the impact of different types and sources of information on the risk perceptions of participants. The estimated annualized burden is 90 hours.

Type of respondents	Number of respondents per year	Number of responses/ respondent	Avg. burden per response (in hrs.)
Middle school students	360	1	15/60

Dated: October 16, 2000.

Nancy Cheal,

Acting Associate Director for Policy, Planning and Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 00–27049 Filed 10–19–00; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–10015]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of

automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: New collection.

Title of Information Collection: Evaluation of the Qualified Medicare Beneficiary (QMB) and Specified Low-Income Medicare Beneficiary (SLMB) Programs—Beneficiary Survey.

Form No.: HCFA–10015 (OMB#0938–NEW).

Use: Medicare beneficiaries eligible for the Qualified Medicare Beneficiary (QMB) and Specified Low-Income Medicare Beneficiary (SLMB) Programs will be surveyed. Numerous studies have shown that large numbers of potentially eligible QMB's and SLMB's do not participate in these programs. To further its goals under GPRA, the Health Care Financing Administration (HCFA) needs information on the effects of the QMB and SLMB programs. This project will help HCFA do develop a better understanding of the reasons for the low participation rates among the potential eligibles for both programs. Also, it will provide HCFA with information on the awareness of the QMB and SLMB programs; the paths and barriers to QMB and SLMB enrollment and the benefits of the QMB and SLMB coverage;

Frequency: Other: One-Timer.

Affected Public: Individuals or Households.

Number of Respondents: 1,500.

Total Annual Responses: 1,500.

Total Annual Hours: 500.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's Web Site Address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: October 11, 2000.

John P. Burke, III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–27017 Filed 10–19–00; 8:45 am]

BILLING CODE 4120–03–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–199 and HCFA–255]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Health Care Financing Administration (HCFA), Department of Health and Human Services, has submitted to the Office of Management and Budget (OMB) the following proposal for the collection of information. Interested persons are invited to send comments regarding the burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

(1) *Type of Information Collection Request:* Revision of a currently approved collection.

Title of Information Collection: Medicaid Report on Payables and Receivables.

Form No.: HCFA–R–199 (OMB #0938–0697).

Use: The Chief Financial Officers Act of 1990 requires government agencies to produce auditable financial statements. This form will collect accounting data from the States on Payables and Receivables.

Frequency: Annually.

Affected Public: State, Local or Tribal Government.

Number of Respondents: 57.

Total Annual Responses: 57.

Total Annual Hours: 342.

(2) *Type of Information Collection Request:* Extension of a currently approved collection.

Title of Information Collection: Municipal Health Services Cost Report Form and Supporting Regulations in 42 CFR 405.2470.

Form No.: HCFA–255 (OMB#0938–0155).

Use: The Municipal Health Services Program Cost Report (HCFA–255) is used by the participating clinics to report costs for health care services rendered to Medicare beneficiaries. It is also used to gather data to properly evaluate the demonstration. It has been in use since 1979.

Frequency: Annually.

Affected Public: State, Local or Tribal Government, and Not-for-profit institutions.

Number of Respondents: 14.

Total Annual Responses: 14.

Total Annual Hours: 476.

To obtain copies of the supporting statement for the proposed paperwork collections referenced above, access HCFA's Web Site Address at http://www.hcfa.gov/regs/prdact95.htm, or E-mail your request, including your address and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB Desk Officer designated at the following address: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: October 11, 2000.

John P. Burke III,

HCFA Reports Clearance Officer, HCFA, Office of Information Services, Security and Standards Group, Division of HCFA Enterprise Standards.

[FR Doc. 00–27025 Filed 10–19–00; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NHLBI.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Heart, Lung, and Blood Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NHLBI.

Date: December 7–8, 2000.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, Building 10, Room 7S235, 9000 Rockville Pike, Bethesda, MD 20892.

Contact Person: Elizabeth G Nabel, Scientific Director for Clinical Research, National Heart, Lung, and Blood Institute, Division of Intramural Research, Building 10, Room 8C103, MSC 1754, Bethesda, MD 20892; 301/496–1518.

(Catalogue of Federal Domestic Assistance Program Nos. 93.233, National Center for Sleep Disorders Research; 93.837, Heart and Vascular Diseases Research; 93.838, Lung Diseases Research; 93.839, Blood Diseases and Resources Research, National Institutes of Health, HHS)

Dated: October 13, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–26966 Filed 10–19–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetics and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, ZDK1 GRB 4J1.

Date: November 29–30, 2000.

Time: 7 p.m. to 7 p.m.

Agenda: To review and evaluate grant applications.

Place: The San Luis Resort and Conference Center, 5222 Seawall Boulevard, Galveston, TX 77551.

Contact Person: William E. Elzinga, Scientific Review Administrator, Review Branch, DEA NIDDK, Room 647, 6707 Democracy Boulevard, National Institutes of Health, Bethesda, MD 20892–6600; (301) 594–8895.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: October 13, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–26960 Filed 10–19–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Mental Health Special Emphasis Panel.

Date: December 5, 2000.

Time: 2:00 p.m. to 4:00 p.m.

Agenda: To review and evaluate grant applications.

Place: Neuroscience Center, National Institutes of Health, 6001 Executive Blvd., Bethesda, MD 20892. (Telephone Conference Call).

Contact Person: Davis I. Sommers, Ph.D, Scientific Review Administrator, Division of Extramural Activities, National Institute of Mental Health, NIH, Neuroscience Center, 6001 Executive Blvd., Room 6144, MSC 9606, Bethesda, MD 20892–9606; 301–443–6470.

(Catalogue of Federal Domestic Assistance Program Nos. 93.242, Mental Health Research Grants; 93.281, Science Development Award, Scientist Development Award for Clinicians, and Research Scientist Award; 93.282, Mental Health National Research Service Awards for Research Training, National Institutes of Health, HHS)

Dated: October 13, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–26961 Filed 10–19–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: October 26, 2000.

Time: 10 am to 12 pm.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd., 5th Floor, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Jon M. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: October 13, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–26962 Filed 10–19–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: October 18, 2000.

Time: 2:00 pm to 3:00 pm.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd., DSR Conf. Rm., Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Jon M. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: October 13, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–26963 Filed 10–19–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hearby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel.

Date: October 25, 2000.

Time: 11:00 am to 12:00 pm.

Agenda: To review and evaluate grant applications.

Place: 6100 Executive Blvd., Room 5E01, Rockville, MD 20852 (Telephone Conference Call).

Contact Person: Jon M. Ranhand, PhD, Scientist Review Administrator, Division of Scientific Review, National Institute of Child Health and Human Development, NIH, 6100 Executive Blvd., Room 5E03, Bethesda, MD 20892, (301) 435–6884.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the re view and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.209, Contraception and Infertility Loan Repayment Program; 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research, National Institutes of Health, HHS)

Dated: October 13, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–26964 Filed 10–19–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institutes of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

Date: November 6, 2000.

Time: 12:00 PM to 2:00 PM.

Agenda: To review and evaluate grant applications.

Place: 45 Natcher Bldg., Rm. 5As.25u, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Tracy A. Shahan, PhD, Scientific Review Administrator, National Institutes of Health, National Institute of Arthritis and Musculoskeletal and Skin Diseases, Bldg. 45/Room 5as–25h, Bethesda, MD 20892, (301) 594–4952.

Name of Committee: National Institute of Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel.

Date: December 5, 2000.

Time: 8:30 AM to 5:00 PM.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Tracy A. Shahan, PhD., Scientific Review Administrator, National Institutes of Health, National Institute of Arthritis and Musculoskeletal and Skin Diseases, Bldg. 45/Room 5as-25h, Bethesda, MD 20892, (301) 594–4952.

(Catalogue of Federal Domestic Assistance Program Nos. 93.846, Arthritis, Musculoskeletal and Skin Diseases Research, National Institutes of Health, HHS)

Dated: October 13, 2000.

LaVerne Y. Stringfield,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 00–26965 Filed 10–19–00; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4561–N–65]

Notice of Submission of Proposed Information Collection to OMB; Emergency Comment Request; Departmental Grants Management Survey; Notice of Proposed Information Collection of Public Comment

AGENCY: Office of Chief Information Officer.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for emergency review and approval, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* October 27, 2000.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within seven (7) days from the date of this Notice. Comments should refer to the proposal by name/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., HUD Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Wayne Eddins, Reports Management Officer, Q, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410; e-mail Wayne_Eddins@HUD.gov; telephone (202) 708–2374. This is not a toll-free number. Copies of available documents submitted to OMB may be obtained from Mr. Eddins.

SUPPLEMENTARY INFORMATION: This Notice informs the public that the Department of Housing and Urban Development (HUD) has submitted to OMB, for emergency processing, an information collection package with respect to a survey of HUD's business partners and current grantees on their use of HUD's current grant management systems and the time and effort involved in their processing of grant information. The Department is developing a web-based, departmental grants management system that will cover the lifecycle of a grant from application through to closeout and audit and feels input from our business partners will help minimize the associated information collection burden.

This Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, *e.g.,* permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Departmental Grants Management Survey.

OMB Control Number: Pending.

Agency Form Numbers: None.

Members of Affected Public: State, local or tribal government, not-for-profit institutions.

Estimation of the total numbers of hours needed to prepare the information collection including number of respondents, frequency of responses, and hours of response: 110 total hours; 110 respondents; one response per respondent; and one hour per response.

Authority: The Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 13, 2000.

Wayne Eddins,

Departmental Reports Management Officer, Office of the Chief Information Officer.

[FR Doc. 00–26959 Filed 10–19–00; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4560–FA–11]

Announcement of Funding Awards for the Historically Black Colleges and Universities Program, Fiscal Year 2000

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice of funding awards.

SUMMARY: In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989, this announcement notifies the public of funding decisions made by the Department in a competition for funding under the Notice of Funding Availability (NOFA) for the Historically Black Colleges and Universities (HBCUs) Program. This announcement contains the names and addresses of the awardees and the amount of the awards made available by HUD to provide assistance to the HBCUs.

FOR FURTHER INFORMATION CONTACT: Delores Pruden, Historically Black Colleges and Universities Program, Office of the Deputy Assistant Secretary for Grant Programs, Community Planning and Development, Department of Housing and Urban Development, 451 7th St., S.W., Washington, DC 20410; telephone (202) 708–1590 (this is not a toll-free number). Hearing- and speech-impaired persons may access this number via TTY by calling the Federal Information Relay Service toll-free at 1–800–877–8339. Information may also be obtained from a HUD field office, see Appendix A for names, addresses and telephone numbers, or for general information, applicants can call Community Connections at 1–800–998–9999.

SUPPLEMENTARY INFORMATION: This program is authorized under section 107(b)(3) of the Housing and Community Development Act of 1974 (the 1974 Act) (42 U.S.C. 5307(b)(3)), which was added by section 105 of the Department of Housing and Urban Development Reform Act of 1989 (Pub. L. 101–235). The program is governed by regulations contained in 24 CFR 570.400 and 570.404, and in 24 CFR part 570, subparts A, C, J, K, and O.

This notice announces FY 2000 funding of $10,365,897 to HBCUs to be used to stimulate economic and community development activities in the HBCUs' locality. The FY 2000 grantees announced in this Notice were selected for funding consistent with the provisions in the NOFA published in the **Federal Register** on February 24, 2000 (65 FR 9429).

The Catalog of Federal Domestic Assistance number for this program is 14.237.

In accordance with section 102(a)(4)(C) of the Department of Housing and Urban Development Reform Act of 1989 (103 Stat. 1987, 42 U.S.C. 3545), the Department is publishing the grantees and amounts of the awards in Appendix B.

Dated: October 10, 2000.

Cardell Cooper,

Assistant Secretary for Community Planning and Development.

Appendix A—Community Planning and Development (CPD) Directors With Historically Black Colleges and Universities Located Within Their Jurisdiction

Harold Cole, Beacon Ridge Tower, 600 Beacon Parkway West, Suite 300, Birmingham, AL 35209–3144; 205–290–7630 ext. 1027

Anne Golnik, TCBY Tower, 425 West Capitol Avenue, Suite 900, Little Rock, AR 72201–3488; 501–324–6375

John Perry, Five Points Plaza, 49 Marietta Street, 15th Floor, Atlanta, GA 30303–2806; 404–331–5001 ext. 2449

Ben Cook, 601 West Broadway, PO Box 1044, Louisville, KY 40201–1044; 502–582–6163 ext. 214

Gregory Hamilton, Hale Boggs Federal Building, 501 Magazine Street, 9th Floor, New Orleans, LA 70130–3099; 504–589–7212 ext. 3047

Joseph O'Connor, City Crescent Building, 10 South Howard Street, 5th Floor, Baltimore, MD 21201–2505; 410–962–2520 ext. 3071

Raymond Perry, Patrick V. McNamara Federal Building, 477 Michigan Avenue, Detroit, MI 48226–2592; 313–226–7908 ext. 8053

Emily Eberhardt, Doctor A. H. McCoy Federal Building, 100 West Capitol Street, Room 910, Jackson, MS 39269–1096; 601–965–4700 ext. 3140

Anne Wiedl, Robert A. Young Federal Building, 1222 Spruce Street, 3rd Floor, St. Louis, MO 631286; 314–539–6524

Lana Vacha, 200 North High Street, Columbus, OH 43215–2499; 614–469–6737 ext. 8240

David Long, 500 West Main Street, Suite 400, Oklahoma City, OK 73102; 405–553–7569

Joyce Gaskins, The Wanamaker Building, 100 Penn Square East, Philadelphia, PA 19107–3380; 215–656–0624 ext. 3201

Louis E. Bradley, Strom Thurmond Federal Building, 1835 Assembly Street, Columbia, SC 29201–2480; 803–765–5564

Virginia Peck, John J. Duncan Federal Building, 710 Locust Street SW, 3rd Floor, Knoxville, TN 37902–2526; 423–545–4391 ext. 121

Katie Worsham, 801 Cherry Street, 25th Floor, Fort Worth, TX 76102; 817–978–5933

John T. Maldonado, Washington Square, 800 Dolorosa Street, San Antonio, TX 78207–4563; 210–475–6820 ext. 2293

Carlos Renteria (Acting), The 3600 Centre, 3600 West Broad Street, Richmond, VA 23230–4920; 804–278–4503 ext. 3229

Ronald Herbert, 820 First Street NE, Suite 450, Washington, DC 20002–4205; 202–275–0994 ext. 3163

Charles T. Ferebee, Koger Building, 2306 West Meadowview Road, Greensboro, NC 27407–3707; 910–547–4005

James N. Nichol, Southern Bell Tower, 301 West Bay Street, Suite 2200, Jacksonville, FL 32202–5121; 904–232–1777 ext. 2136

Jack Johnson, Brickell Plaza Federal Building, 909 Southeast First Avenue, Room 500, Miami, FL 33131–3028; 305–536–4431

Lynn B. Daniels, 339 Sixth Avenue, Sixth Floor, Pittsburgh, PA 15222–2515; 412–644–2999

Carmen R. Caberra, New San Juan Office Building, 159 Carlos E. Chardon Avenue, San Juan, PR 00918; 787–766–5576 ext. 2005

Appendix B—Funding Awards

Alabama

1. Alabama A&M University, Dr. John T. Gibson, President, P.O. Box 1357, Normal, AL 35762; Phone: 256–851–5230, Fax: 256–851–5244
   Grant Amount: $350,000.00
2. Alabama State University, Dr. William H. Harris, President, P.O. Box 271, Montgomery, AL 36101; Phone: 334–229–4200, Fax: 334–834–6861
   Grant Amount: $220,000.00
3. Bishop State Community College, Dr. Yvonne Kennedy, President, 351 North Broad Street, Mobil, AL 36603; Phone: 334–690–6416, Fax: 334–438–9523
   Grant Amount: $183,858.80
4. Gadsden State Community College, Dr. Victor B. Ficker, President, Valley Street Campus, P.O. Box 227, Gadsden, AL 35902–0227; Phone: 256–549–8221, Fax: 256–549–8444
   Grant Amount: $380,000.00
5. J.F. Drake Technical College,* Dr. Johnny L. Harris, President, 3421 Meridan Street North, Huntsville, AL 35811; Phone: 256–539–8161, Fax: 256–539–6439
   Grant Amount: $175,089.70
6. Lawson State Community College,* Dr. Perry W. Ward, President, 3060 Wilson Road S.W., Birmingham, AL 35221; Phone: 205–925–2515 ext. 300, Fax: 205–923–1649
   Grant Amount: $175,089.70
7. Miles College,* Dr. Albert J.H. Sloan II, President, P.O. Box 3800, Birmingham, AL 35208; Phone: 205–929–1428, Fax: 205–929–1426
   Grant Amount: $200,000.00
8. Oakwood College, Dr. Delbert Baker, President, 7000 Adventist Boulevard, Huntsville, AL 35896; Phone: 256–726–7334, Fax: 256–726–8335
   Grant Amount: $350,000.00

Arkansas

9. Arkansas Baptist College, Dr. William T. Keaton, President, 1600 Bishop Street, Little Rock, AR 72202; Phone: 501–372–6883, Fax: 501–372–0321
   Grant Amount: $250,000.00
10. Shorter College,* Dr. Irma Hunter Brown, President, 604 Locust Street, N. Little Rock, AR 72114; Phone: 501–374–6305 ext. 202, Fax: 501–374–9333
    Grant Amount: $100,000.00
11. University of Arkansas at Pine Bluff, Dr. Lawrence A. Davis, Jr., Chancellor, 1200 North University Drive, P.O. Box 4008, Pine Bluff, AR 71601; Phone: 870–543–8471, Fax: 870–543–8003
    Grant Amount: $310,000.00

District of Columbia

12. Howard University, Mr. H. Patrick Swygert, Esq., President, 2400 6th Street, N.W., Washington, DC 20059; Phone: 202–806–2500, Fax: 202–806–5934
    Grant Amount: $175,000.00**
13. University of the District of Columbia, Dr. Juluis F. Nimmons, Jr., President, 4200 Connecticut Avenue N.W., Washington, DC 20008; Phone: 202–274–5100, Fax: 202–274–5304
    Grant Amount: $375,000.00

Florida

14. Edward Waters College,* Dr. Jimmy Jenkins, President, 1658 Kings Road, Jacksonville, FL 32209; Phone: 904–366–2500, Fax: 904–366–2544
    Grant Amount: $250,000.00
15. Florida A&M University, Dr. Frederick S. Humphries, President, 400 Lee Hall, Tallahassee, FL 32307; Phone: 850–599–3225, Fax: 850–561–2152
    Grant Amount: $220,000.00

Louisiana

16. Dillard University,* Dr. Michael Lomax, President, 2601 Gentilly Boulevard, New Orleans, LA 70122; Phone: 504–283–8822, Fax: 504–288–8663
    Grant Amount: $123,000.00**
17. Xavier University, Dr. Norman C. Francis, President, 7325 Palmetto Street, New Orleans, LA 70125; Phone: 504–483–7541, Fax: 504–485–7904
    Grant Amount: $350,000.00

Maryland

18. Bowie State University, Dr. Calvin W. Lowe, 14000 Jericho Park, Road, Bowie, MD 20715; Phone: 301–464–6500, Fax: 301–464–7814
    Grant Amount: $183,858.80**

Mississippi

19. Alcorn State University, Dr. Clinton Bristow, Jr., President, P.O. Box 359, Lorman, MS 39096; Phone: 601–877–6111, Fax: 601–877–2975
    Grant Amount: $220,000.00
20. Jackson State University, Dr. Ronald Mason, Jr., President, P.O. Box 17390, 1400 J.R. Lynch Street, Jackson, MS 39217; Phone: 601–979–2323, Fax: 601–979–2948
    Grant Amount: $200,000.00
21. Tougaloo College, Dr. Joe A. Lee, President, 500 E. County Line Road, Tougaloo, MS 39174; Phone: 601–977–7730, Fax: 601–977–7866
    Grant Amount: $350,000.00

North Carolina

22. Barber-Scotia College,* Dr. Sammie Potts, President, 145 Cabarrus Avenue, Concord, NC 28025; Phone: 704–789–2900/2905, Fax: 704–789–2958
    Grant Amount: $150,000.00
23. Elizabeth City State University, Dr. Mickey L. Burnim, Chancellor, P.O. Box 790, Elizabeth City, NC 27909; Phone: 252–335–3228, Fax: 252–335–3731
    Grant Amount: $475,000.00
24. North Carolina A&T State University, Dr. James C. Renick, Jr., President, 1601 E. Market Street, Greensboro, NC 27411; Phone: 336–334–7940, Fax: 336–334–7082
    Grant Amount: $475,000.00

South Carolina

25. Allen University,* Dr. John K. Waddell, President, 1530 Harden Street, Columbia, SC 29204; Phone: 803–376–5701, Fax: 803–376–5709
Grant Amount: $200,000.00
26. Benedict College, Dr. David Swinton, President, 600 Harden Street, Columbia, SC 29204; Phone: 803–254–7253, Fax: 803–253–5060
Grant Amount: $380,000.00
27. Claflin University, Dr. Henry N. Tisdale, President, 700 College Avenue N.E., Orangeburg, SC 29115; Phone: 803–535–5412, Fax: 803–535–5402
Grant Amount: $325,000.00

Tennessee

28. Fisk University, Dr. John L. Smith, 1000 17th Avenue North, Nashville, TN 37208; Phone: 615–329–8555, Fax: 615–329–8576
Grant Amount: $250,000.00
29. Lemoyne-Owen College, Dr. George R. Johnson, Jr., President, 807 Walker Avenue, Memphis, TN 38126; Phone: 901–942–7301, Fax: 901–942–3572
Grant Amount: $380,000.00
30. Meharry Medical College,* Dr. John E. Maupin, Jr., President, 1005 Dr. D.B. Todd, Jr. Boulevard, Nashville, TN 37208; Phone: 615–327–6904, Fax: 615–327–6540
Grant Amount: $250,000.00
31. Tennessee State University,* James A. Hefner, President, 3500 John Merritt Boulevard, Nashville, TN 37209; Phone: 615–963–7401, Fax: 615–963–7407
Grant Amount: $200,000.00

Texas

32. Huston-Tillotson College, Dr. Larry L. Earvin, President, 900 Chicon Street, Austin, TX 78702; Phone: 512–505–3003, Fax: 512–505–3190
Grant Amount: $380,000.00
33. Saint Philip's College, Dr. Angie Stokes Runnels, President, 1801 Martin Luther King, Jr. Drive, San Antonio, TX 78203; Phone: 210–531–3591, Fax: 210–531–3590
Grant Amount: $350,000.00
34. Texas College, Dr. Haywood L. Strickland, President, P.O. Box 4500, Tyler, TX 75712; Phone: 903–593–8311, Fax: 903–593–0588
Grant Amount: $350,000.00

Virginia

35. Hampton University, Dr. William R. Harvey, President, Hampton, VA 23668; Phone: 757–727–5231, Fax: 757–727–5746
Grant Amount: $220,000.00
36. Norfolk State University, Dr. Marie V. McDemmond, President, 2401 Corprew Avenue, Norfolk, VA 23504; Phone: 757–823–8670, Fax: 757–823–2342
Grant Amount: $265,000.00
37. Virginia Union University,* Dr. Bernard W. Franklin, President, 1500 N. Lombardy Street, Richmond, VA 23220; Phone: 804–257–5835, Fax: 804–257–5833
Grant Amount: $250,000.00

West Virginia

38. West Virginia State College, Dr. Hazo Carter, Jr., President, P.O. Box 399, Institute, WV 25112; Phone: 304–766–3111, Fax: 304–768–9842
Grant Amount: $325,000.00

* Previously unfunded.

** To fund the awards for Howard University, Bowie State University and Dillard University, Fiscal Year (FY) 1998 Recaptured Funds were used as follows:

Howard University	$175,000.00
Bowie State University	117,717.60
Dillard University	73,179.40
Total FY 1998 funds used	365,897.00
Grand Total awarded in FY 2000	10,365,897.00

[FR Doc. 00–26958 Filed 10–19–00; 8:45 am]

BILLING CODE 4210–29–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4557–N–42]

Federal Property Suitable as Facilities To Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

EFFECTIVE DATE: October 20, 2000.

FOR FURTHER INFORMATION CONTACT: Clifford Taffet, Department of Housing and Urban Development, Room 7262, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565, (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: October 12, 2000.

Fred Karnas, Jr.,

Deputy Assistant Secretary for Special Needs Assistance Programs.

[FR Doc. 00–26841 Filed 10–19–00; 8:45 am]

BILLING CODE 4210–29–M

DEPARTMENT OF THE INTERIOR

[516 DM 1–15]

National Environmental Policy Act Revised Implementing Procedures

AGENCY: Department of the Interior.

ACTION: Extension of time.

SUMMARY: This notice is for the sole purpose of granting the public an extension of time to review our August 28, 2000, publication of the above named procedures. The publication appears at 65 FR 52211–52241. The Department of the Interior will now accept comments from the public through close of business on November 13, 2000.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 00–26998 Filed 10–19–00; 8:45 am]

BILLING CODE 4310–RG–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife

Notice of Intent To Prepare Comprehensive Conservation Plans and Associated Environmental Document for Missisquoi National Wildlife Refuge

AGENCY: Fish and Wildlife Service, Interior.

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) intends to gather information necessary to prepare a Comprehensive Conservation Plan (CCP) and environmental documents pursuant to the National Environmental Policy Act and its implementing regulations. One CCP will be prepared for Missisquoi National Wildlife Refuge, located in Franklin County, Vermont. A Wilderness Review of Missisquoi NWR will also be completed concurrently in accordance with the Wilderness Act of 1964, as amended and Refuge Planning Policy 602 FW Chapters 1, 2, and 3. The Service is furnishing this notice in compliance with the National Wildlife Refuge System Administration Act of 1966, as amended (16 U.S.C. 668dd *et seq.*):

(1) to advise other agencies and the public of our intentions, and (2) to

obtain suggestions and information on the scope of issues to include in the environmental documents.

DATES: Inquire at the address below for dates of planning activity and due dates for comments. Further notice announcing times and locations of public meetings and open houses will be published in local news media prior to the hearing date.

ADDRESSES: Address comments, questions and requests for more information to the following: Refuge Manager, Missisquoi National Wildlife Refuge 371 North River St., Swanton, VT 05488–8148, (802) 868–4781.

SUPPLEMENTARY INFORMATION: By Federal law, all lands within the National Wildlife Refuge System are to be managed in accordance with an approved CCP. The CCP guides management decisions and identifies refuge goals, long-range objectives, and strategies for achieving refuge purposes. The planning process will consider many elements including habitat and wildlife management, habitat protection and acquisition, public use, and cultural resources. Public input into this planning process is essential. The CCP will provide other agencies and the public with a clear understanding of the desired conditions for the Refuges and how the Service will implement management strategies.

The Service will solicit public input via open houses, public meetings, workshops, and written comments. Special mailings, newspaper articles, and announcements will inform people of the time and place of such opportunities for public input to the CCP.

Missisquoi National Wildlife Refuge (NWR) includes 6,592 acres of the Missisquoi River delta's marshes, open water, old fields and wooded swamps. Comments on the protection of threatened and endangered species and migratory birds and the protection and management of their habitats will be solicited as part of the planning process. A draft CCP is planned for public review in the fall of 2001.

Review of these projects will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), NEPA Regulations (40 CFR Parts 1500–1508), other appropriate Federal laws and regulations, and Service policies and procedures for compliance with those regulations.

Dated: October 13, 2000.

Mamie A. Parker,

Acting Regional Director, U.S. Fish and Wildlife Service, Hadley, Massachusetts.

[FR Doc. 00–27019 Filed 10–19–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation, Fish and Wildlife Service

[FES 00–48]

Notice of Availability of Final Environmental Impact Statement/ Environmental Impact Report

AGENCIES: Bureau of Reclamation, Fish and Wildlife Service.

ACTION: Notice of availability of Final Environmental Impact Statement for the proposed Trinity River Mainstem Fishery Restoration.

SUMMARY: This notice announces the availability of a joint final Environmental Impact Statement/ Environmental Impact Report (FEIS/ EIR) for the Trinity River Mainstem Fishery Restoration. The U.S. Fish and Wildlife Service, U.S. Bureau of Reclamation, Hoopa Valley Tribe, and Trinity County prepared a FEIS/EIR to assist the Secretary of the Interior in developing recommendations for permanent instream fishery flow requirements, habitat restoration projects, and operating criteria and procedures for the Trinity River Division of the Central Valley Project, California, necessary for the restoration and maintenance of natural production of anadromous fish in the Trinity River. Such recommendations are required by: the January 14, 1981, Secretarial Decision that initiated the Trinity River Flow Evaluation; the Trinity River Basin Fish and Wildlife Management Act (Public Law 98–541); and the Central Valley Project Improvement Act (Public Law 102–575).

DATES: A Record of Decision will occur no sooner than November 20, 2000.

ADDRESSES: Copies of the FEIS/EIR will be available on compact disc which, along with a summary, can be obtained by contacting the Fish and Wildlife Service, 1655 Heindon Road, Arcata, California 95521, (707) 822–7201. The documents are also available for review at the following government offices and libraries:

Government Offices

Fish and Wildlife Service, Arcata Fish and Wildlife Office, 1655 Heindon Road, Arcata, California 95521, (707) 822–7201;

Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, Sacramento, California 95825, (916) 414–6464;

Trinity County Planning Department, 303 Trinity Lakes Blvd, Weaverville, CA 96093 (530) 623–1351;

Trinity County Natural Resources Division, 98A Clinic Ave., Hayfork, CA 96041, (530) 628–5949.

Libraries

Alameda Free Library, 2264 Santa Clara Avenue, Alameda, California 94501–4506, (510) 748–4669; Beale Memorial Library, 701 Truxtun Ave, Bakersfield, California, 93301, (661) 868–0700; Cesar Chaves Central Library, 605 N. El Dorado St, Stockton, California, (209) 937–8415; California State Library, Information and Reference Center, 914 Capitol Mall, Room 301, Sacramento, California 95814, (916) 654–0261; Colusa County Free Library, 738 Market Street, Colusa, California 95932–2398, (530) 458–7671; Contra Costa County Library, 1750 Oak Park Boulevard, Pleasant Hill, California 94523–4497, (510) 646–6423; Coos Bay Public Library, 525 W. Anderson Ave., Coos Bay, Oregon, 97420, (541) 269–1101; Del Norte County Library District, 190 Price Mall, Crescent City, California 95531–4395, (707) 464–9793; Fresno County Library, Central Branch, 2420 Mariposa St. Fresno, California, (559) 488–3195; Humboldt County Library, 1313 Third Street, Eureka, California 95501–1088, (707) 269–1900; Humboldt State University Library, Humboldt State University, Arcata, California 95521, (707) 826–4939; Lake County Library, 1425 N. High Street, Lakeport, California 95453–3800, (707) 263–8816; Los Angeles Public Library, 630 W. Fifth Street, Los Angeles, California, 90071–2097, (213) 228–7515; Marin County Free Library, 3501 Civic Center Drive, San Rafael, California 94903–4188, (415) 499–6051; Mendocino County Library-Ft. Bragg, 499 E Laurel St. Fort Bragg, California, 95437, (707) 964–2020; Mendocino County Library-Ukiah, 105 N. Main Street, Ukiah, California 95482–4482, (707) 463–4491; Menlo Park Public Library, 800 Alma Street, Menlo Park, California 94025–3460, (650) 858–3460; Merced County Library, 2222 M St., Merced, California, 95340, (209) 385–7434; Modesto Jr. College Library, 425 College Ave, Modesto, California, 95350, (209) 575–6498; Monterey Public Library, 625 Pacific Street, Monterey, California, 93940, (831) 646–3932; Sacramento Public Library, 828 I Street, Sacramento, California 95814–2589, (916) 264–2770; San Francisco Public Library, 100 Larkin Street, San Francisco, California

94102–4796, (415) 557–4400; San Jose Public Library, 180 W. San Carlos Street, San Jose, California 95113–2096, (408) 277–4822; Santa Cruz Public Library, 224 Church Street, Santa Cruz, California 95060–3873, (408) 429–3532; Shasta County Library, 1855 Shasta Street, Redding, California 96001–0460, (530) 225–5769; Siskiyou County Free Library, 719 Fourth Street, Yreka, California 96097–3381, (530) 842–8175; Sonoma County Library, Third and E Streets, Santa Rosa, California 95404–4400, (707) 545–0831; Tehama County Library, 645 Madison Street, Red Bluff, California 96080–3383, (530) 527–0607; Trinity County Free Library, 211 N. Main Street, Weaverville, California 96093–1226, (530) 623–1373; Willows Public Library, 201 N. Lassen St., Willows, California, 95988, (530) 934–5156; Central Library, 801 SW. 10th Avenue, Portland, Oregon 97205, (503) 248–5123; and National Clearinghouse Library, 624 Ninth Street, NW., 600, Washington, DC 20425, (202) 376–8110.

The FEIS/EIR will be available at the Fish and Wildlife Service website at http://www.ccfwo.r1.fws.gov.

FOR FURTHER INFORMATION CONTACT: Dr. MaryEllen Mueller, U.S. Fish and Wildlife Service, 2800 Cottage Way, Suite W–2606, Sacramento, CA 95825 (916) 414–6464 or Jay Glase, U.S. Fish and Wildlife Service, 1655 Heindon Road, Arcata, CA 95521 (707) 822–7201.

SUPPLEMENTARY INFORMATION:

Construction of the Trinity River Division (TRD) of the Central Valley Project (CVP) was completed in 1963. The primary function of the TRD is to store Trinity River water for regulated diversion to the Central Valley of California for agricultural, municipal, and industrial uses. Construction and operation of the TRD resulted in the diversion of up to 90 percent of the average annual discharge in the Trinity River at Lewiston, and blocked access to 109 miles of salmon and steelhead spawning and rearing habitat. Reduced river flows, combined with excessive watershed erosion and encroachment of the river channel by riparian vegetation, caused major changes in the channel morphology resulting in the simplification and degradation of the remaining salmon and steelhead habitat of the Trinity River below the Lewiston Dam. This, in turn, resulted in rapid declines of salmon and steelhead populations following completion of the TRD.

In response to declining fisheries and degraded habitat conditions, the Secretary of the Interior (Secretary) decided in 1981 to increase flows in the Trinity River ranging from 140,000 acre-feet to 340,000 acre-feet annually, with reductions in dry and critically dry years. In addition, the Fish and Wildlife Service was directed to undertake a Flow Evaluation Study to assess fish habitat at various flows, summarize the effectiveness of other instream and watershed restoration activities, and recommend appropriate flows and other measures necessary to better maintain favorable habitat conditions. The Flow Evaluation Study began in October 1984 and was completed in June 1999. In October 1984, the Trinity River Basin Fish and Wildlife Management Act (Management Act) (Public Law 98–541) was enacted by Congress with the goal of restoring fish and wildlife populations to pre-TRD levels. The Act provided funding for construction, operation, and maintenance of the 11-item action plan developed by the Trinity River Task Force in 1982.

In 1992, the Central Valley Project Improvement Act (CVPIA) (Public Law 102–575) was passed. Section 3406(b)(23) of the CVPIA provides, through the TRD, an instream release of not less than 340,000 acre-feet of water into the Trinity River to meet Federal trust responsibilities to protect fishery resources of the Hoopa Valley Tribe and to meet the fishery restoration goals of the Management Act. The recommendations for mainstem Trinity River fishery restoration will be developed after appropriate consultations with Federal, State, Tribal, local agencies, and affected interests, and after completion the Flow Evaluation Study.

To restore the natural production of anadromous fish in the Trinity River in accordance with the 1981 Secretarial Decision, the Management Act, and the CVPIA, the FEIS/EIR analyzes the impacts of:

(1) Increased instream releases into the Trinity River to provide anadromous fish habitat and restore fluvial processes,

(2) Implementation of a channel rehabilitation program,

(3) Implementation of a spawning gravel supplementation program,

(4) Implementation of a watershed rehabilitation program, and

(5) Implementation of an Adaptive Environmental Assessment and Management Program.

On October 19, 1999, the Service published a notice in the **Federal Register** announcing the availability of the draft EIS/EIR and the commencement of the public comment period in the **Federal Register** (64 FR 56364). The comment period was originally scheduled to end on December 8, 1999. However, on December 2, 1999 the Service extended the period until December 20, 1999 (64 FR 67584). On December 27, 1999 the Service published a notice in the **Federal Register**, which reopened the public comment period until January 20, 2000 (64 FR 72357). In total, the lead agencies received written comments from 6445 people and organizations (1009 letters and 5436 preprinted postcards). The primary concerns expressed in many of the comments related to fishery resource analyses, power generation impacts analyses, mechanical modifications to riverine habitat and the amount of river flow proposed for restoration efforts. A list of the commenters and the response of the agencies to the comments is presented in the FEIS/EIR.

The FEIS/EIR is intended to accomplish the following:

(1) Inform the public of the proposed action and alternatives;

(2) Address public comments received during the scoping and comment periods;

(3) Disclose the direct, indirect, and cumulative environmental effects of the proposed action and each of the alternatives; and

(4) Indicate any irreversible commitment of resources that would result from implementation of the proposed action.

This notice is provided pursuant to Section 102(2)(c) of the National Environmental Policy Act of 1969, as implemented by the Council on Environmental Quality regulations (40 CFR parts 15001508), and the California Environmental Quality Act of 1970, as amended.

The Technical Appendixes (TA) for this FEIS/EIR will be made available upon request from the U.S. Fish and Wildlife Service, Arcata Office, 1655 Heindon Road, Arcata, CA 95521; (707) 822–7201. Documents cited in the FEIS/EIR and its supporting TAs will be available for viewing in Sacramento (U.S. Fish and Wildlife Service, 2800 Cottage Way, 946–414–6464), Arcata (U.S. Fish and Wildlife Service, 1655 Heindon Road; 707–822–7201), and Weaverville (Trinity County Library, 211 N. Main Street, Weaverville, California 96093, 530–623–1373).

Dated: October 13, 2000.

Willie R. Taylor,

Director, Office of Environmental Policy and Compliance.

[FR Doc. 00–27011 Filed 10–19–00; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Sonoran Desert Conservation Plan (SDCP) for Pima County, Arizona

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Notice of Intent to extend the public comment period on scoping issues for preparation of an Environmental Impact Statement (EIS) related to the SDCP.

SUMMARY: On September 7, 2000, pursuant to the National Environmental Policy Act (NEPA), the public was advised that the U.S. Fish and Wildlife Service (Service) intends to prepare an EIS to evaluate the impacts of and alternatives for the possible issuing of an incidental take permit, pursuant to section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act), to Pima County. At public scoping meetings held on October 4, 2000 in Tucson, Arizona, the public requested additional time in which to respond. This notice provides an extension of 30 days to the public comment period.

DATES AND ADDRESSES: Written comments on conservation alternatives and issues to be addressed in the EIS are now requested by Friday, November 24, 2000, and should be sent to Mr. David Harlow, Field Supervisor, U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ, 85021 at 602/640–2720. For the information of the general public, names and addresses of anyone who comments may and can be disclosed under the Freedom of Information Act.

FOR FURTHER INFORMATION ON THE EIS, CONTACT: Ms. Sherry Barrett, Assistant Field Supervisor, Tucson Suboffice, U.S. Fish and Wildlife Service, 300 West Congress, Room 6J, Tucson, AZ, 85701, at 520/670–4617, or Mr. David Harlow, Field Supervisor, Arizona State Office, U.S. Fish and Wildlife Service, 2321 West Royal Palm Road, Suite 103, Phoenix, AZ, 85021 at 602/640–2720. FOR FURTHER INFORMATION ON THE SDCP, CONTACT: Mr. Paul Fromer, RECON, 1927 Fifth Avenue, Suite 200, San Diego, California 92101–2358 at 619/308–9333. Information on the purpose, membership, meeting schedules, and documents associated with the SDCP may be obtained on the Internet at *http://www.co.pima.az.us/cmo/sdcp/index.html.*

SUPPLEMENTARY INFORMATION: This notice advises the public that the Service intends to extend the public scoping period through November 24, 2000, for gathering of information necessary to determine impacts and formulate alternatives for an EIS related to the potential issuance of an incidental take permit to Pima County, Arizona, and the development and implementation of the SDCP, which will provide measures to minimize and mitigate the effects of the incidental take of federally listed species.

Background: Following is a preliminary list for public scoping comments of probable environmental resources, effects, and issues associated with the proposed action. The public is requested to add items to this list, make suggestions for possible alternative actions regarding these resources, and/or comment on how these resources may be impacted by the development, implementation, and potential issuance of a permit for the Sonoran Desert Conservation Plan.

Biological resources, including listed species
Urban land uses, including residential, commercial, and industrial development
Transportation
Water resources, including hydrology and water quality
Agriculture
Air resources
Cultural and historical resources
Recreation
Ranching practices and livestock grazing
Mineral resources
Utility rights-of-way
Fire management
Social and economic resources
Environmental justice

Comments and suggestions are invited from all interested parties to ensure that a range of issues and alternatives related to the proposed action are identified. The review of this project will be conducted according to the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), National Environmental Policy Act Regulations (40 CFR 1500–1508), and other appropriate Federal laws, regulations, policies and guidance.

Related Project Documentation—It is anticipated that the EIS process will make full use (including incorporation by reference, as appropriate, pursuant to NEPA) of documents prepared by Pima County and other entities regarding the environmental and socioeconomic issues in the project area, copies of which will be available for public inspection at the Pima County Administrator's Office, 130 West Congress, 10th floor, Tucson AZ 85701.

After the environmental review is completed, the Service will publish a notice of availability and a request for comment on the draft EIS and Pima County's permit application, which will include the SDCP.

The draft EIS is expected to be completed by December, 2002.

Nancy M. Kaufman,

Regional Director, Southwest Region, Albuquerque, New Mexico.

[FR Doc. 00–27050 Filed 10–19–00; 8:45 am]

BILLING CODE 4310–94–U

DEPARTMENT OF THE INTERIOR

Geological Survey

Request for Public Comments on Proposed Information Collection To Be Submitted to the Office of Management and Budget for Review Under the Paperwork Reduction Act

The proposal for the collection of information described below will be submitted to the Office of Management and Budget for approval under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35). Copies of the proposed collection of information and related forms may be obtained by contacting the Bureau's clearance officer at the phone number listed below. Comments and suggestions on the proposal should be made within 60 days directly to the Bureau clearance officer, U.S. Geological Survey, 807 National Center, 12201 Sunrise Valley Drive, Reston, Virginia, 20192, telephone (703) 648–7313.

Specific public comments are requested as to:

1. Whether the collection of information is necessary for the proper performance of the functions on the bureaus, including whether the information will have practical utility;

2. The accuracy of the bureau's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used:

3. The quality, utility, and clarity of the information to be collected; and

4. How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other forms of information technology.

Title: National Spatial Data Infrastructure (NSDI) Cooperative Agreements Program (CAP).

OMB approval number: New collection.

Abstract: Respondents submit proposals for receiving assistance in implementing the National Spatial Data Infrastructure (NSDI) including metadata, clearinghouse, and

framework. The technological and institutional development of NSDI supports the ease of discovery, access and utilization of geographic information on the Internet. This information will be used as the basis for selection and award of projects meeting program objectives. Annual or final reports are required on the performances of each selected.

Bureau form number: None.

Frequency: Annual proposals and final reports.

Description of respondents: State, local, and Federal government, academic institutions, private business, and non-profit organizations.

Annual responses: 120.

Annual burden hours: 6,640 hours.

Bureau clearance officer: John Cordyack, 703–648–7313.

Dated: October 11, 2000.

Barbara J. Ryan,

Associate Director for Geography.

[FR Doc. 00–27000 Filed 10–19–00; 8:45 am]

BILLING CODE 4310–7Y–M

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Notice of Intent To Take Land in Trust for the Little Traverse Bay Band of Odawa Indians

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: The Assistant Secretary—Indian Affairs, United States Department of the Interior, made a final agency determination on August 21, 2000, that the United States will accept the South ½ of the NE ¼ of Section 2, Township 37 North, Range 5 West, containing 80 acres, and the East ½ of the NW ¼ Section 36, Township 36 North, Range 6 West, containing 80 acres, Michigan Meridian, Emmet County, Michigan, in the name of the United States for the benefit of the Little Traverse Bay Bands of Odawa Indians. Notices sent to all political entities on August 21, 2000, contained a typographical error in the number of acres contained in each tract. The notice should have said 80 acres per tract instead of 40 acres. The Little Traverse Bay Bands of Odawa Indians is organized pursuant to the Indian Reorganization Act of 1934, as amended, and it has been determined that this trust acquisition is mandated for the Little Traverse Bay Bands of Odawa Indians pursuant to 25 U.S.C. 1300k–4(a). The United States shall acquire title no sooner than 30 days after this notice is published. This notice is published in accordance with 25 CFR 151.12(b) which was published on April 24, 1996 (61 FR 18082).

FOR FURTHER INFORMATION CONTACT: Larry Scrivner, Deputy Director, Office of Trust Responsibilities, Bureau of Indian Affairs, Washington, DC 20240; 202–208–5831.

Dated: October 13, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–27062 Filed 10–19–00; 8:45 am]

BILLING CODE 4310–02–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–020–1220–HA]

Closure of Public Lands in Yavapai County to Off-Highway Vehicle Use; Phoenix Field Office, Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of off-road vehicle closure.

SUMMARY: This notice is to inform the public that the Bureau of Land Management (BLM) intends to close certain lands near Prescott, Arizona in Yavapai County to any and all types of off-highway vehicle (OHV) use. This closure will be year-round and will remain in effect until rescinded or modified by the Phoenix Field Office Manager. The public land affected by this closure is specifically identified as follows:

All BLM administered public lands in

Township 14 North, Range 1 West, G&SRM
Public Lands within Section 33, W½W½NW¼

Containing approximately 40 acres

This OHV closure will protect public lands from environmental damage and to aid in the protection of adjoining state and private lands. The closure will eliminate excessive vehicle noise in residential neighborhoods, reduce the incidence of fugitive dust impacting homeowners, and curtail unattended campfires and fireworks use. Trespass across state and private land to reach this parcel of BLM-administered lands will be curbed by this closure. Dumping of construction debris and litter on the BLM lands will also be halted by this action.

BLM is coordinating this action with adjoining land owners, including the Arizona State Land Department, the Arizona Public Service utility company, the Arizona Game and Fish Department, private residents, and the City of Prescott Police Department. The designated closed area will be posted with signs and have barriers and fences installed where needed. This closure will be monitored and enforced by the BLM, the City of Prescott Police Department, and other law enforcement agencies.

The following persons, operating within the scope of their official duties, are exempt from the provisions of the closure: Employees of the BLM, Arizona Game and Fish Department, Arizona State Land Department, and local or federal law enforcement and fire protection personnel. This closure is in accordance with the provisions of the Federal Land Policy and Management Act of 1976 (43 USC 1701) and 43 CFR, Subpart 8364.1. Any person who fails to comply with the provisions of this closure may be subject to penalties outlined in 43 CFR Subpart 8360.0–7.

EFFECTIVE DATE: This order will be effective upon publication of this notice in the **Federal Register** and completion of on-the-ground signing and posting by BLM, the Arizona State Land Department and local law enforcement authorities.

FOR FURTHER INFORMATION CONTACT: Michael A. Taylor, Field Manager, Phoenix Field Office, 2015 West Deer Valley Road, Phoenix, Arizona 85027; 623–580–5500.

SUPPLEMENTARY INFORMATION: The 40 acres of public land affected by this off-highway vehicle closure order are adjacent to expanding urban and residential development. Unregulated and unauthorized off-highway and cross-country vehicle travel is not consistent with the orderly growth of the community, public health and safety, and the use of adjoining private land for residences.

Loud noise and fugitive dust from off-highway vehicle operation is a growing and continuing problem. OHV users have been operating their vehicles from early morning till late at night, disturbing nearby property owners. Unattended campfires and use of fireworks create extreme fire hazards for the community. Target shooting and gunfire have disturbed neighborhoods to the north, east and south of this public land parcel. Trespass by off-highway vehicle users from public land onto adjoining private lands has been documented. Increasing levels of local law enforcement personnel and time have been allocated to answering disturbance calls from residents due to noise, dust, late night activity, unattended campfires, firework use,

gunfire, and illegal dumping of dirt, debris and trash.

Dated: October 2, 2000.

Deborah K. Rawhouser,

Assistant Field Manager, Resource Use & Protection.

[FR Doc. 00–27018 Filed 10–19–00; 8:45 am]

BILLING CODE 4310–32–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–650–1430–01; CALA014410]

Road Closure

AGENCY: Bureau of Land Management, Interior.

ACTION: Road closure.

SUMMARY: Temporary Closure of Road to ensure public safety and continued reliability of the First Los Angeles Aqueduct until the required emergency maintenance and rehabilitation of the Aqueduct is completed.

EFFECTIVE DATE: October 20, 2000.

FOR FURTHER INFORMATION CONTACT: Peter Graves, Ridgecrest Field Office, BLM, 300 South Richmond Road, Ridgecrest, CA 93555, (760) 384–5429.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management, Ridgecrest Field Office hereby announces that the road between Grapevine Canyon and Sand Canyon will be temporarily closed effective October 9, 2000 to July 31, 2001. This action is taken pursuant to Title 43 Code of Federal Regulations part 8364. The reason for the closure is to ensure public safety and the continued reliability of the First Los Angeles Aqueduct until the Los Angeles Department of Water & Power (LADWP) completes emergency repairs and rehabilitation to the Aqueduct. Access on the subject road is prohibited without the express written consent of LADWP. Access across the road may be arranged by calling Robert Chaney of LADWP at (661)-824–7901. For more information, contact Peter G. Graves, Resource Management Specialist, at (760) 384–5429.

Dated: October 5, 2000.

Hector A. Villalobos,

Field Office Manager.

[FR Doc. 00–27026 Filed 10–19–00; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–300–1990–00]

Surface Management Regulations for Locatable Mineral Operations; Final Environmental Impact Statement Availability

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of availability of final environmental impact statement (EIS) on Surface Management Regulations for Locatable Minerals Management.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act and 40 CFR 1500–1508 Council on Environmental Quality Regulations, notice is given that the Bureau of Land Management (BLM) has prepared a Final EIS on the Surface Management Regulations for Locatable Mineral Operations (43 CFR 3809), and has made it available to the public.

DATES: The Bureau of Land Management will make this FEIS available to the public for at least 30 days following publication in the **Federal Register** by the Environmental Protection Agency of a Notice of Receipt of this Final EIS, and will take no final action during this time period.

FOR FURTHER INFORMATION CONTACT: Paul McNutt, BLM Nevada State Office, (775) 861–6604, or via email: pmcnutt@blm.gov; or Andrew Strasfogel, BLM Washington Office, (202) 452–7723, or via email: astrasfo@blm.gov.

SUPPLEMENTARY INFORMATION: Copies may be requested from Paul McNutt, BLM Nevada State Office, 1340 Financial Blvd., Reno, NV 89502, (775) 861–6604, or via email: pmcnutt@blm.gov.

Dated: October 16, 2000.

Nina Hatfield,

Deputy Director.

[FR Doc. 00–27014 Filed 10–19–00; 8:45 am]

BILLING CODE 4310–84–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[UT–912–01–1020–AE–24–1A]

Notice of Meeting of the Utah Resource Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting of the Utah Resource Advisory Council.

SUMMARY: The Bureau of Land Management's Utah Statewide Resource Advisory Council (RAC) meeting will be held on November 8–9, 2000 in Bluff, Utah.

On November 8, from 1–4:30, the RAC will meet at Desert Rose Hotel, 701 West Main, Bluff, Utah. The Council will be given an overview of the Resource Advisory Council (RAC) in Utah, its past accomplishments and activities, some Utah specifics, and an overview of the BLM programs in general. A public comment period is scheduled on November 8 from 4–4:30 where members of the public may address the Council.

On November 9, from 8 a.m.–1 p.m., the RAC will be taking a field tour of Sand Island and the Butler Wash where they will be looking at cultural, recreation, wilderness, and visitation issues. The afternoon session (1–3:30 p.m.), at the Desert Rose Hotel, will include reports on Fire and Fire Rehabilitation and Off-Highway Vehicle issues, followed by an open discussion period. The meeting will conclude at 3:30.

All meetings of the BLM's Resource Advisory Council are open to the public; however, transportation, meals, and overnight accommodations are the responsibility of the participating public.

FOR FURTHER INFORMATION CONTACT: Sherry Foot, Special Programs Coordinator, Utah State Office, Bureau of Land Management, 324 South State Street, Salt Lake City, UT 84111; phone (801) 539–4195.

Dated: October 16, 2000.

Sally Wisely,

Utah BLM State Director.

[FR Doc. 00–26974 Filed 10–19–00; 8:45 am]

BILLING CODE 4310–$$–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–600–01–1220–AL–1784]

Southwest Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; Southwest Resource Advisory Council meeting.

SUMMARY: Notice is hereby given that the Southwest Resource Advisory Council (Southwest RAC) will meet in November 2000 in Montrose, Colorado.

DATES: The meeting will be held on Thursday, November 9, 2000.

ADDRESSES: For additional information, contact Roger Alexander, Bureau of Land Management, 2465 South Townsend Avenue, Montrose, Colorado 81401; phone 970–240–5335; TDD 970–240–5366; e-mail roger_alexander@co.blm.gov.

SUPPLEMENTARY INFORMATION: The November 9, 2000 meeting will be held at the Bureau of Land Management—North Building Conference Room, 2465 South Townsend, Montrose, Colorado. The meeting will begin at 9:00 a.m. and end at approximately 4:30 p.m. The agenda will include presentations on BLM's fire management program and the Uncompahgre Plateau Habitat Project, and BLM business updates (recreation guidelines, BLM organizational changes in western Colorado, etc.). General public comment is scheduled for 9:15 a.m.

Summary minutes for Council meetings are maintained in BLM's North Building in Montrose and on the World Wide Web at www.co.blm.gov/swrac/swrac.htm and are available for public inspection and reproduction within thirty (30) days following each meeting.

Dated: October 16, 2000.

Roger Alexander,

Public Affairs Specialist.

[FR Doc. 00–27051 Filed 10–19–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–1220–EB]

Campground Fees for BLM-Administered Campgrounds in Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Supplementary rules.

SUMMARY: The Bureau of Land Management (BLM) is establishing recreation use fees for campgrounds that did not have existing supplementary rules related to recreation use fees. BLM is also reaffirming existing supplementary rules for BLM-administered campgrounds throughout Colorado. We are taking this action to authorize the collection of fees from those who use the campgrounds. This action has the effect of requiring campground users to pay fees for the use of certain designated campgrounds.

EFFECTIVE DATE: October 20, 2000.

FOR FURTHER INFORMATION CONTACT: Tina McDonald, BLM Colorado State Office (CO–930), 2850 Youngfield Street, Lakewood, Colorado 80215, (303) 239–3716.

SUPPLEMENTARY INFORMATION: The authority for these Supplementary Rules is contained in the Code of Federal Regulations, Title 43, § 8365.1–6, Supplementary Rules. Violation of any supplementary rule by a member of the public, except for the provisions of § 8365.1–7, are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months. (Code of Federal Regulations, Title 43, § 8360.0–7.)

Violations of supplementary rules authorized by Sec. 8365.1–7 are punishable in the same manner.

Existing BLM Campgrounds in Colorado

This supplementary rule authorizes the establishment and re-affirmation of recreation fees at all existing fee campgrounds on BLM administered lands in Colorado. The following campgrounds are subject to recreation fees:

Gunnison Field Office: Mill Creek, Red Bridge, The Gate
San Juan Field Office: Bradfield Bridge
Royal Gorge Field Office: Shelf Road Recreation sites, Sand Gulch, The Banks
Grand Junction Field Office: Mud Springs
Kremmling Field Office: Pumphouse, Radium
Glenwood Springs Field Office: Gypsum, Wolcott
Saguache Field Office: Penitente Canyon
Uncompahgre Field Office: All campsites within the Gunnison Gorge National Conservation Area

Dave Strunk,

Deputy State Director, Resource Services (Acting).

[FR Doc. 00–26997 Filed 10–19–00; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–952–01–1420–BJ]

Notice of Filing of Plats of Survey; New Mexico

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey described below are scheduled to be officially filed in the New Mexico State Office, Bureau of Land Management, Santa Fe, New Mexico, (30) thirty calendar days from the date of this publication.

Indian Meridian, Oklahoma

T. 6 N., R. 14 E., approved September 28, 2000, for Group 68 OK;
T. 6 N., R. 14 E., approved September 28, 2000, for Group 68 OK;
T. 10 S., R. 21 W., approved September 19, 2000, Supplemental Plat;
Amended Protraction Diagrams for Tps. 7–12 S., R. 21 W., approved May 4, 2000;
Tps. 6 and 7 S., R. 16 W., approved August 25, 2000;
T. 13 S., R. 16 W., approved September 19, 2000;
Tps. 7, 9 and 10 S., R. 17 W., approved August 25, 2000;
Tp. 12 S., R. 15 W., approved September 19, 2000;
Tps. 13 and 14 S., R. 15 W., approved September 22, 2000;
T. 14 S., R. 12 W., approved September 19, 2000;
T. 14 S., R. 14 W., approved September 19, 2000;
Tps. 12 and 13 S., R. 14 W., approved September 22, 2000;
Tps. 32 and 33 S., R. 22 W., approved September 28, 2000.

Filed on the date of this letter are the following surveys:

T. 8 S., R. 12 W., approved July 19, 2000, for Group 967 NM; and
T. 17 N., R. 9 E., approved August 25, 2000, Supplemental Plat.

If a protest against a survey, as shown on any of the above plats is received prior to the date of official filing, the filing will be stayed pending consideration of the protest. A plat will not be officially filed until the day after all protests have been dismissed and become final or appeals from the dismissal affirmed.

A person or party who wishes to protest against any of these surveys must file a written protest with the NM State Director, Bureau of Land Management, stating that they wish to protest.

A statement of reasons for a protest may be filed with the notice of protest to the State Director, or the statement of reasons must be filed with the State Director within thirty (30) days after the protest is filed. The above-listed plats represent dependent resurveys, surveys, and subdivisions.

These plats will be available for inspection in the New Mexico State Office, Bureau of Land Management, P.O. Box 27115, Santa Fe, New Mexico, 87502–0115. Copies may be obtained from this office upon payment of $1.10 per sheet.

Dated: October 12, 2000.

John P. Bennett,

Chief Cadastral Surveyor for New Mexico.

[FR Doc. 00–27027 Filed 10–19–00; 8:45 am]

BILLING CODE 4310–FB–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–894 (Preliminary)]

Certain Ammonium Nitrate From Ukraine

AGENCY: United States International Trade Commission.

ACTION: Institution of Antidumping Investigation and Scheduling of a Preliminary Phase Investigation.

SUMMARY: The Commission hereby gives notice of the institution of an investigation and commencement of preliminary phase antidumping investigation No. 731–TA–894 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) (the Act) to determine whether there is a reasonable indication that an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Ukraine of certain ammonium nitrate,[1] provided for in subheading 3102.30.00 of the Harmonized Tariff Schedule of the United States, that are alleged to be sold in the United States at less than fair value. Unless the Department of Commerce extends the time for initiation pursuant to section 732(c)(1)(B) of the Act (19 U.S.C. 1673a(c)(1)(B)), the Commission must reach a preliminary determination in antidumping investigations in 45 days, or in this case by November 27, 2000. The Commission's views are due at the Department of Commerce within five business days thereafter, or by December 4, 2000.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207, subparts A and B (19 CFR part 207).

EFFECTIVE DATE: October 13, 2000.

FOR FURTHER INFORMATION CONTACT: Diane Mazur (202–205–3184), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on October 13, 2000, by the Committee For Fair Ammonium Nitrate Trade (''COFANT'') whose members include Air Products & Chemicals, Inc., Allentown, PA; Mississippi Chemical Corp., Yazoo City, MS; El Dorado Chemical Co., Oklahoma City, OK; La Roche Industries, Inc., Atlanta, GA; and Nitram, Inc., Tampa, FL.

Participation in the Investigation and Public Service List

Persons (other than petitioners) wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in sections 201.11 and 207.10 of the Commission's rules, not later than seven days after publication of this notice in the **Federal Register**. Industrial users and (if the merchandise under investigation is sold at the retail level) representative consumer organizations have the right to appear as parties in Commission antidumping investigations. The Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in this investigation available to authorized applicants representing interested parties (as defined in 19 U.S.C. 1677(9)) who are parties to the investigation under the APO issued in the investigation, provided that the application is made not later than seven days after the publication of this notice in the **Federal Register**. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on November 3, 2000, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Diane Mazur (202–205–3184) not later than November 1, 2000, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the conference.

Written Submissions

As provided in sections 201.8 and 207.15 of the Commission's rules, any person may submit to the Commission on or before November 8, 2000, a written brief containing information and arguments pertinent to the subject matter of the investigation. Parties may file written testimony in connection with their presentation at the conference no later than three days before the conference. If briefs or written testimony contain BPI, they must conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules. The Commission's rules do not authorize filing of submissions with the Secretary by facsimile or electronic means.

In accordance with sections 201.16(c) and 207.3 of the rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: This investigation is being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.12 of the Commission's rules.

Issued: October 16, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–27057 Filed 10–19–00; 8:45 am]

BILLING CODE 7020–02–P

[1] The product covered by this investigation is solid, fertilizer grade ammonium nitrate, whether prilled, granular or in other solid form, with or without additives or coating, and with a bulk density equal to or greater than 53 pounds per cubic foot. Specifically excluded from this investigation is solid ammonium nitrate with a bulk density less than 53 pounds per cubic foot (commonly referred to as industrial or explosive grade ammonium nitrate).

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–424]

Certain Cigarettes and Packaging Thereof; Notice of Issuance of General Exclusion Order and Cease and Desist Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has issued a general exclusion order and a cease and desist order in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Shara L. Aranoff, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436; telephone (202) 205–3090, e-mail *saranoff@usitc.gov.*

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on September 16, 1999, based on a complaint and supplement to the complaint filed by Brown & Williamson Tobacco Corporation (''complainant'' or ''Brown & Williamson''). Complainant alleged unfair acts in violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) in the importation, sale for importation, and/or sale within the United States after importation of certain cigarettes and packaging thereof, by reason of: (a) Infringement of 11 federally registered U.S. trademarks (U.S. Reg. Nos. 118,372; 311,961; 335,113; 366,744; 404,302; 508,538; 747,482; 747,490; 2,055,297; 2,174,493; and 2,218,589) (''the Brown & Williamson trademarks''); (b) trademark dilution; (c) false representation of source; and (d) false advertising. The Commission's notice of investigation named Allstate Cigarette Distributors, Inc. (''Allstate''), Dood Enterprises, Inc. (''Dood''), Prestige Storage and Distribution, Inc. (''Prestige''), and R.E. Tobacco Sales, Inc. (''R.E. Tobacco'') as respondents.

On December 15, 1999, the Commission determined not to review an initial determination (''ID'') (Order No. 15) granting the motion of PTI, Inc., doing business as Ampac Trading (''PTI'' or ''intervenor''), to intervene in this investigation. On February 22, 2000, the Commission determined to review and affirm an ID (Order No. 30) granting the motion of respondent Allstate to terminate the investigation as to it based on a consent order. On March 24, 2000, the Commission determined not to review two IDs (Orders Nos. 60 and 61) granting the motions of respondents Prestige and R.E. Tobacco to terminate the investigation as to them based on consent orders. On April 27, 2000, the Commission determined not to review an ID (Order No. 68) granting the motion of respondent Dood to terminate the investigation as to it based on a consent order.

On March 24, 2000, the Commission determined not to review an ID (Order No. 59) granting complainant's motion for partial summary determination that a domestic industry exists with respect to complainant's trademarks.

The presiding administrative law judge (''ALJ'') held an evidentiary hearing on violation beginning on March 20, 2000. On March 24, 2000, the last day of the hearing, PTI filed a motion for dismissal of Brown & Williamson's complaint pursuant to Federal Rule of Civil Procedure (''FRCP'') 41(a), alleging that Brown & Williamson failed to set forth facts showing entitlement to relief for trademark infringement. The ALJ permitted complainant and the Commission investigative attorney (''IA'') to respond to PTI's motion in their posthearing briefs.

On June 22, 2000, the ALJ issued her final ID finding a violation of section 337 and denying PTI's motion to dismiss. She found that there had been imports of the accused products by intervenor PTI; that PTI's importation and sale of certain ''KOOL'' and ''LUCKY STRIKE'' cigarettes infringed the Brown & Williamson trademarks; that PTI's importation and sale of accused cigarettes diluted the Brown & Williamson trademarks; that PTI's importation and sale of accused cigarettes constituted a false designation of origin; that complainant had failed to demonstrate that PTI engaged in false advertising with respect to the accused cigarettes; that PTI's trademark dilution and false designation had the threat or effect of substantially injuring the domestic industry; and that PTI was not denied due process in proceedings before the ALJ in this investigation.

On June 27, 2000, the Commission determined to extend the date by which it was required determine whether to review the instant ID to August 28, 2000, and to extend the target date in this investigation to October 16, 2000.

On July 12, 2000, intervenor PTI filed a petition for review of the final ID. On July 17, 2000, complainant and the IA filed responses to the petition. On August 28, 2000, the Commission determined not to review the ID and requested written submissions on the issues of remedy, the public interest, and bonding. 65 FR 53334 (Sept. 1, 2000).

Submissions on remedy, the public interest, and bonding were received from complainant, intervenor PTI, and the IA. Reply submissions were received from complainant and the IA. Comments on the public interest were received from one U.S. Senator, nineteen Members of Congress, the National Association of Attorneys General, the Attorney General of Florida, the Petroleum Marketers Association of America, the National Association of Convenience Stores, and the National Grocers Association.

Having reviewed the record in this investigation, including the written submissions of the parties and the public comments, the Commission has determined that the appropriate form of relief is a general exclusion order prohibiting the unlicenced entry for consumption of KOOL and LUCKY STRIKE cigarettes manufactured by Brown & Williamson that infringe the eleven federally-registered Brown & Williamson trademarks (U.S. Reg. Nos. 118,372; 311,961; 335,113; 366,744; 404,302; 508,538; 747,482; 747,490; 2,055,297; 2,174,493; and 2,218,589), dilute the identified trademarks, or bear the identified trademarks and falsely represent that the trademark owner is the source of such product, and a cease and desist order directed to intervenor PTI, prohibiting the importation, sale for importation, or sale in the United States after importation of KOOL and LUCKY STRIKE cigarettes that infringe the Brown & Williamson trademarks.

The Commission has also determined that the public interest factors enumerated in subsections 1337(d) and (f) do not preclude the issuance of the general exclusion order and the cease and desist order, and that the bond during the Presidential review period shall be in the amount of seven dollars ($7.00) per carton of cigarettes.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and section 210.50 of the Commission's Rules of Practice and Procedure (19 CFR 210.50).

Copies of the Commission's orders, the public version of the Commission's opinion in support thereof, and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–2000. Hearing impaired persons are advised that information can be obtained by contacting the Commission's TDD

terminal on (202) 205–1810. Public documents are available for downloading from the Commission's Internet server *(http://www.usitc.gov).* General information concerning the Commission may also be obtained by accessing its Internet server.

Issued October 16, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–27058 Filed 10–19–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–395]

Certain EPROM, EEPROM, Flash Memory, and Flash Microcontroller Semiconductor Devices, and Products Containing Same; Notice of Final Determination and Issuance of Limited Exclusion Order; Notice of Denial of Motions for Sanctions, for Attorney's Fees, and for Dismissal of Complaint

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has found a violation of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and has issued a limited exclusion order in the above-captioned investigation. The Commission has also determined to deny a motion for dismissal of Atmel's complaint for unclean hands and motions for sanctions and attorney's fees.

FOR FURTHER INFORMATION CONTACT: Timothy P. Monaghan, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202–205–3152.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on March 18, 1997, based upon a complaint filed by Atmel Corporation alleging that Sanyo Electric Co., Ltd. (''Sanyo''), Winbond Electronics Corporation of Taiwan and Winbond Electronics North America Corporation of California (collectively ''Winbond''), and Macronix International Co., Ltd. and Macronix America, Inc. (collectively ''Macronix'') had violated section 337 in the sale for importation, the importation, and the sale within the United States after importation of certain erasable programmable read only memory (''EPROM''), electrically erasable programmable read only memory (''EEPROM''), flash memory, and flash microcontroller semiconductor devices, by reason of infringement of one or more claims of U.S. Letters Patent 4,511,811 (''the '811 patent''), U.S. Letters Patent 4,673,829 (''the '829 patent''), and U.S. Letters Patent 4,451,903 (''the '903 patent'') assigned to Atmel. 62 FR 13706 (March 21, 1997). Silicon Storage Technology, Inc. (''SST'') was permitted to intervene in the investigation.

On March 19, 1998, the presiding administrative law judge (''ALJ'') issued his final initial determination (''ID'') finding that respondents had not violated section 337, based on his finding that neither the '811 patent, the '829 patent, nor the '903 patent was infringed by any product imported and sold by respondents or intervenor. He also found, that the '903 patent is unenforceable because of waiver and implied license by legal estoppel, that claims 2–8 of that patent are invalid for indefiniteness, but that the '903 patent is not unenforceable for failure to name a co-inventor. Complainant Atmel petitioned for review of the ALJ's final ID, and on May 6, 1998 the Commission determined to review most of the ALJ's findings and requested written submissions on the issues of remedy, the public interest, and bonding. 63 FR 25867 (May 11, 1998).

On review, the Commission determined that the '811 patent and the '829 patent were invalid on the basis of collateral estoppel in light of a U.S. district court decision (*Atmel Corp.* v. *Information Storage Devices, Inc.,* No. C–95–1987–FMS, 1998 WL 184274 (N.D. Cal. April 14, 1998)), and that the '903 patent was unenforceable for failure to name a co-inventor. The investigation was terminated with a finding of no violation of section 337.63 FR 37133 (July 9, 1998).

On August 11, 1998, after issuance of the Commission opinion, Atmel filed a petition with the U.S. Patent and Trademark Office (''PTO'') to correct the inventorship of the '903 patent. The PTO granted Atmel's petition on August 18, 1998, and issued a certificate of correction on October 6, 1998.

On September 8, 1998, Atmel filed with the Commission a ''Petition For Relief From Final Determination Finding U.S. Patent No. 4,451,903 Unenforceable.'' Respondents and the Commission's Office of Unfair Import Investigations (''OUII'') filed responses to the petition. The Commission ruled on Atmel's petition on January 25, 1999. It determined to treat Atmel's petition as a petition for reconsideration, granted the petition, and reopened the record of the investigation for the limited purpose of resolving the issues arising from the PTO's issuance of the certificate of correction for the '903 patent. The investigation was remanded to the ALJ who issued an ID on May 17, 2000, finding that complainant Atmel had committed inequitable conduct at the PTO in the procurement of the certificate of correction for the '903 patent; that the inventors listed on the PTO certificate of correction are not the correct inventors; and that no inequitable conduct was shown to have taken place at the PTO in the prosecution of the original patent application that matured into the '903 patent.

On May 30, 2000, Atmel petitioned for review of the ID of May 17, 2000, and certain orders issued by the ALJ. Respondents, intervenor, and the Commission investigative attorney (''IA'') filed responses to Atmel's petition. On July 17, 2000, the Commission determined to review the ALJ's determination that the PTO certificate of correction for the '903 patent was procured inequitably; the ALJ's determination that the inventors named on the PTO certificate of correction are incorrect; the ALJ's ruling in Order No. 50 that Atmel had waived the attorney-client and attorney work product privileges; and the ALJ's ruling in Order No. 69 that Atmel bore the burden of proof by clear and convincing evidence that the inventors shown on the PTO certificate of correction are the correct inventors. The Commission requested briefs on the issues under review, and posed briefing questions for the parties to answer. The Commission also requested written submissions on remedy, the public interest, and bonding. 65 FR 45406 (July 21, 2000).

On August 28, 1998, Atmel appealed the Commission's ''no violation'' determination of July 2, 1998, to the U.S. Court of Appeals for the Federal Circuit. Sanyo, Winbond, Macronix, and SST intervened in support of the Commission. On November 6, 1998, Sanyo and Winbond moved to dismiss the portion of the appeal concerning the '903 patent. On December 8, 1998, the Federal Circuit stayed the appeal pending a ruling from the Commission on Atmel's then pending motion for the Commission to reconsider its prior determination on inventorship.

On February 10, 1999, Winbond filed a petition for a writ of mandamus with the Federal Circuit. Winbond asked the Federal Circuit to direct the Commission to vacate its January 25, 1999, order remanding the inventorship issue to the ALJ. Winbond argued that the Commission was without authority to grant relief from its final determination of ''no violation'' because

the case had been appealed to the Federal Circuit.

The Federal Circuit denied Winbond's petition for a writ of mandamus on April 16, 1999, and remanded Atmel's appeal to the Commission, stating that ''[a]fter its proceedings are complete, the ITC shall issue a final determination encompassing Atmel's complaint regarding all three patents so that the parties may seek [judicial] review at that time.'' In Re Winbond Electronics Corporation and Winbond Electronics North America Corporation, Appeal No. 98–1580, Miscellaneous Docket No. 579 (Fed. Cir. April 16, 1999) (Mandate issued on June 7, 1999) at p. 4. As a result of this ruling, and the Federal Circuit's subsequent reversal of the U.S. district court decision in *Atmel Corp.* v. *Information Storage Devices, Inc.,* all three Atmel patents at issue were before the Commission for final determination.

The U.S. district court decision (*Atmel Corp.* v. *Information Storage Devices, Inc.,* No. C–95–1987–FMS, 1998 WL 184274 (N.D. Cal. April 14, 1998)) was appealed by Atmel to the Federal Circuit. On December 28, 1999, the Federal Circuit reversed and remanded the case to the district court. *Atmel Corp.* v. *Information Storage Devices, Inc.,* 198 F.3d 1374 (Fed. Cir. 1999).

On April 3, 2000, the Commission issued an order allowing the parties to file main briefs and reply briefs setting forth their views on intervening developments in the law as they relate to the remaining issues in investigation concerning the '811 patent, the '829 patent, and the '903 patent (all issues other than inventorship).

Having examined the record in this investigation, including the briefs and the responses thereto, the Commission determined, as noted, that there is a violation of section 337. More specifically, the Commission found that the claims in issue of the '903 patent are valid, enforceable (no incorrect inventorship), and infringed by the imports from intervenor SST and respondents Sanyo and Winbond (but not respondent Macronix), and found a violation of section 337 with regard to the '903 patent as to SST, Sanyo, and Winbond. As to the '811 and '829 patents, the Commission found that the claims in issue of those patents are valid and enforceable, but not infringed by the imports of intervenor SST or respondents Sanyo and Winbond (Atmel did not allege that Macronix infringed the claims in issue of the '811 or '829 patents), and thus found no violation of section 337 with regard to the '811 and '829 patents. The Commission also determined to affirm the result of ALJ Order No. 50, which ordered the production of certain Atmel documents. The Commission also reversed Order No. 69 to the extent that it placed the burden of proving that the certificate of correction of the '903 patent listed the correct inventors on Atmel and vacated the ALJ's determination in Order No. 69 that PTO rule 324 does not comport with its enabling statute.

The Commission also made determinations on the issues of remedy, the public interest, and bonding. The Commission determined that the appropriate form of relief is a limited exclusion order prohibiting the importation of EPROMs, EEPROMs, flash memories, and flash microcontroller semiconductor devices, and circuit boards containing such devices, that infringe claims 1 or 9 of the '903 patent manufactured by or on behalf of Sanyo and Winbond.

The Commission also determined that the public interest factors enumerated in 19 U.S.C. 1337(d) do not preclude the issuance of the limited exclusion and that the bond during the Presidential review period should be set at $0.78 per device.

The authority for the Commission's determinations is contained in section 337 of the Tariff Act of 1930, as amended (19 U.S.C. 1337), and in sections 210.45–210.51 of the Commission's Rules of Practice and Procedure (19 CFR 210.45–210.51).

Copies of the Commission order, the Commission opinion in support thereof, and all other nonconfidential documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, DC 20436, telephone 202–205–2000. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server (http://www.usitc.gov).

Issued: October 16, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–27056 Filed 10–19–00; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337–TA–434]

Certain Magnetic Resonance Injection Systems and Components Thereof; Notice of Decision To Extend the Deadline for Determining Whether To Review an Initial Determination Granting a Motion for Summary Determination of Invalidity

AGENCY: International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to extend by forty (40) days, or until December 6, 2000, the deadline for determining whether to review an initial determination (ID) (Order No. 16) issued by the presiding administrative law judge (ALJ) in the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Jean Jackson, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone (202) 205–3104. Hearing-impaired persons are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. General information concerning the Commission may also be obtained by accessing its Internet server *(http://www.usitc.gov)*.

SUPPLEMENTARY INFORMATION: The Commission instituted this investigation on May 26, 2000, based on a complaint filed by Medrad, Inc. of Indianola, Pennsylvania. The complaint alleged a violation of section 337 of the Tariff Act of 1930, 337 U.S.C. 1337, based on infringement of U.S. Letters Patent Re. 36,648, (the '648 patent) owned by complainant. The respondents named in the investigation are Nemoto Kyorindo Co., Ltd. of Tokyo, Japan; Liebel-Flarshiem Co. of Cincinnati Ohio; and Mallinckrodt Inc., a New York corporation based in Hazelwood, Mo. 65 *Fed. Reg.* 34231. On September 26, 2000, the ALJ issued an ID finding the '648 patent invalid due to certain omissions that occurred during patent reissue proceedings at the U.S. Patent and Trademark Office.

This action is taken under the authority of section 337 of the Tariff Act of 1930, 19 U.S.C. 1337, and section 210.42(h)(3) of the Commission of Practice and Procedure, 19 C.F.R. 210.42(h)(3).

Copies of the nonconfidential version of the ID and all other nonconfidential

documents filed in connection with this investigation are or will be available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436, telephone 202–205–2000. Hearing impaired persons are advised that information on this matter can be obtained by contacting the Commission TDD terminal on 202–205–1810.

Issued: October 16, 2000.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 00–27055 Filed 10–19–00; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to Sections 104 and 107 of CERCLA

Notice is hereby given that on September 22, 2000, the United States lodged a proposed Consent Decree with the United States District Court for the Southern District of Texas, in *United States of America* v. *Advanced Resin Systems, Inc.*, No. H–99–4357, pursuant to sections 104 and 107 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. 9604 and 9607. The proposed Consent Decree resolves civil claims of the United States against twenty-three separate parties in connection with the Archem Site, located in Houston, Texas. The settling parties will pay a total of $1,070,000 to the United States in reimbursement of response costs incurred at the Site by the Environmental Protection Agency.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, United States Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611, and should refer to *United States of America* v. *Advanced Resin Systems, Inc.*, DJ No. 90–11–2–1328/1.

The proposed Consent Decree may be examined at the Office of the United States Attorney for the Southern District of Texas, 515 Rusk, Ste. 3300, Houston, Texas 77002, and the Region VI Office of the United States Environmental Protection Agency, 1445 Ross Avenue, Dallas, Texas, 75202. A copy of the proposed Consent Decree may be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting a copy, please enclose a check for reproduction costs (at 25 cents per page) in the amount of $10.25, payable to the Consent Decree Library.

Walker B. Smith,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–27008 Filed 10–19–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA'')

In accordance with Departmental policy, 28 CFR 50.7, 38 FR 19029, and 42 U.S.C. 9622(d)(2), notice is hereby given that on September 28, 2000, a proposed Consent Decree in *United States* v. *American Cyanamid Company, et al.,* Civil Action No. 00–Civ.–6015 (LMM), was lodged with the United States District Court for the Southern District of New York. The proposed consent decree resolves the United States' claims for past and future costs against John Giannattasio, the principal officer and shareholder of Haul-A-Way and J&G Refuse Company for the Sarney Farm Superfund Site under Section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), 42 U.S.C. 9607. Under the terms of the proposed consent decree, the settler will pay $482,000 to the United States as reimbursement for the costs the United States incurred or will incur at the Sarney Farm Superfund Site.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, P.O. Box 7611, Ben Franklin Station, Washington, DC 20044–7611, and should refer to *United States* v. *American Cyanamid Company, et al.*, D.J. Ref. 90–11–3–854/1.

The proposed consent decree may be examined at EPA Region II, Office of the Environmental Protection Agency, 290 Broadway, New York, New York 10007–1866. A copy of the consent decree may also be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. In requesting a copy, with the attachment, please enclose a check in the amount of $11.75 (25 cents per page reproduction cost) payable to the Consent Decree Library.

Bruce S. Gelber,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–27002 Filed 10–19–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that two Consent Decrees in *United States* v. *Baureis Realty Co., Inc., et al.*, Civil No. 95–2732 (D.N.J.), were lodged on October 6, 2000 with the United States District Court for the District of New Jersey.

The complaint in this action seeks to recover, pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9601, *et al.*, response costs incurred and to be incurred by EPA at the Caldwell Trucking Superfund Site located in the Fairfield, New Jersey (''Site'').

One of the proposed Consent Decrees embodies an agreement with 76 potentially responsible parties (''PRPs'') at the Site pursuant to section 107 of CERCLA, 42 U.S.C. 9607, to pay $2.75 million in settlement of claims for EPA's past and future response costs at the Site.

The other proposed Consent Decree embodies an agreement with eight PRPs at the Site pursuant to Section 107 of CERCLA, 42 U.S.C. 9607, to pay, in aggregate, $1.65 million in settlement of claims for EPA's past and future response costs at the Site.

The monies paid by the settling defendants under both decrees will be used to reimburse past costs incurred at the Site. Both Consent Decrees provide the settling defendants with releases for civil liability for EPA's past and future CERCLA response costs at the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the two proposed Consent Decrees.

Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, P.O. Box 7611, Washington, D.C. 20044–

7611, and should refer to *United States* v. *Baureis Realty Co., Inc., et al.*, DOJ Ref. No. 90–11–3–952D.

The proposed consent decrees may be examined at the Office of the United States Attorney, 970 Broad Street, Rm. 502, Newark, NJ 07102; the Region II Office of the Environmental Protection Agency, and at the Region II Records Center, 290 Broadway, 17th Floor, New York, NY 10007–1866. Copies of the proposed consent decrees may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting copies, please refer to the referenced case and enclose a check in the amount of $26.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce Gelber,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–27005 Filed 10–19–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act (''CERCLA'')

Notice is hereby given that a proposed consent decree in *United States* v. *Cabot Corp., et al,* Civ. No. 00–cv–4265 (SMO) (D.N.J.), was lodged on August 31, 2000 with the United States District Court for the District of New Jersey. The Consent Decree concerns hazardous waste contamination at the King of Prussia Superfund Site (the ''Site''), located on Piney Hollow Road in Winslow Township, New Jersey. The Consent Decree would resolve the liability for reimbursement of past response costs incurred by the United States in connection with the Site as to Cabot Corporation, Carpenter Technology Corporation; Ford Motor Company; Johnson Matthey Inc.; and Rutgers Organics Corporation against whom the United States filed a complaint on behalf of the United States Environmental Protection Agency (''EPA''). The Consent Decree requires the settling defendants to reimburse the EPA Hazardous Substance Superfund $1,700,000 for its past costs pertaining to the Site.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Cabot Corp., et al.*, DOJ Ref. #90–11–3–06970.

The proposed consent decree may be examined at the office of the United States Attorney for the District of New Jersey, 970 Broad Street, Room 502, Newark, New Jersey, 07102 (contact Assistant United States Attorney Susan Cassell); and the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York 10007–1866 (contact Assistant Regional Counsel, Deborah Schwenk). A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of $8.25 (25 cents per page reproduction costs) for the Consent Decree without Appendices, or in the amount of $11.50 for the Consent Decree with all Appendices, payable to the Consent Decree Library.

Bruce S. Gelber,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–27007 Filed 10–19–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *U.S.* v. *Gallatin Steel Company*, Civil No. 99–30 (E.D. Ky.) was lodged on October 5, 2000, with the United States District Court for the Eastern District of Kentucky.

The consent decree settles claims for civil penalties and injunctive relief against Gallatin Steel Company for violations of the Clean Air Act and Kentucky's State Implementation Plan (''SIP''). The United States alleges that Gallatin Steel Company violated the Clean Air Act and the Kentucky SIP because: (1) It exceeded the limits in a permit issued by the Kentucky Division of Air Quality (''KDAQ'') in 1993 for NO_X and CO from its electric arc furnaces (''EAFs''); (2) violated permit NO_X emissions limits at its reheat furnace; (3) constructed emissions units of regulated pollutants without a permit; (4) started up EAFs without operating emission control equipment as required by its permit; (5) failed to include emissions from emissions units in permit applications; (6) failed to use reasonable precautions during the loading and unloading of scrap in the scrap yard to prevent fugitive dust from becoming airborne; and (7) circumvented Prevention of Significant Deterioration (''PSD'') review as required by Section 165 of the Clean Air Act, 42 U.S.C. § 7475, and 401 KAR 51:017.

The proposed consent decree provides that Gallatin Steel Company will pay a civil penalty of $925,000 and install a new dust evacuation system in the melt shop and a new dust suppression system to minimize fugitive dust emissions in the scrap yard. In addition, Gallatin has agreed to supplement its PSD and Title V permit applications to include emissions from the sources that were not included in prior applications. Finally, Gallatin has agreed not to challenge a determination by the KDAQ that emissions from an onsite slag processing plant owned by Harsco, an independent company, will be treated as emissions from the steel mill for PSD and Title V purposes.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *U.S.* v. *Gallatin Steel Company*, DOJ Ref. #90–5–2–1–2115.

The proposed consent decree may be examined at the office of the United States Attorney, for the Eastern District of Kentucky, 110 West Vine Street, Lexington, Kentucky 40596–3077; and the Region 4 Office of the Environmental Protection Agency, 61 Forsyth Street, S.W., Atlanta, Georgia 30303. A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, DC 20044–7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of $9.00 (25 cents per page reproduction costs), payable to the Consent Decree Library.

Walker B. Smith,

Deputy Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–27003 Filed 10–19–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response Compensation and Liability Act (''CERCLA'')

Consistent with Department policy, 28 CFR 50.7, and under section 122(d) of CERCLA, 42 U.S.C. 9622(d), notice is hereby given that a proposed consent decree in *United States* v. *Livingston, et al.*, Civ. No. 97–4770 (WGB), was lodged on October 3, 2000 with the United States District Court for the District of New Jersey. The Consent Decree concerns hazardous waste contamination at the Brook Industrial Park Superfund Site (the ''Site''), located in Bound Brook, Somerset County, New Jersey. The Consent Decree would resolve the liability for reimbursement of response costs incurred and to be incurred by the United States in connection with the Site as to three defendants against whom the United States filed a complaint on behalf of the United States Environmental Protection Agency (''EPA''), and as to the United States Air Force (''Air Force''), against whom counterclaims were filed. The Consent Decree requires National Metal Finishings Corporation, Inc. to reimburse the EPA Hazardous Substance Superfund $313,000.00; requires the Air Force to reimburse the EPA Hazardous Substance Superfund $1,615.485.83; and requires Jame Fine Chemicals, Inc. and the Estate of Richard Schleck to perform remedial work at the Site with an estimated cost of $1.9 million and to pay specified EPA oversight costs in connection with the remedial work.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, D.C. 20044–7611, and should refer to *United States* v. *Livingston, et al.*, DOJ Ref. #90–11–2–1287. Commenters may request an opportunity for a public meeting in the affected area, in accordance with section 703(d) of RCRA, 42 U.S.C. 6973(d).

The proposed consent decree may be examined at the Office of the United States Attorney for the District of New Jersey, 970 Broad Street, Newark, New Jersey 01102 (contact Assistant United States Attorney Susan C. Cassell); and the Region II Office of the Environmental Protection Agency, 290 Broadway, New York, New York, 10007–1866 (contact Assistant Regional Counsel Muthu S. Sundram). A copy of the proposed consent decree may be obtained by mail from the Consent Decree Library, P.O. Box 7611, Washington, D.C. 20044–7611. In requesting a copy please refer to the referenced case and enclose a check in the amount of $14.50 (25 cents per page reproduction costs) for the Consent Decree without Appendices, or in the amount of $45.75 for the Consent Decree with all Appendices, payable to the Consent Decree Library.

Bruce S. Gelber,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–27004 Filed 10–19–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

In accordance with Departmental policy and 28 CFR 50.7, notice is hereby given that on October 4, 2000, a consent decree was lodged in *United States* v. *Maryland Aviation Administration, a Unit of the Maryland DOT,* Civil Action No. WMN–00–2992, with the United States District Court for the District of Maryland.

This consent decree resolves alleged violations of Clean Water Act section 309, 33 U.S.C. 1319, against the Maryland Aviation Administration, a Unit of the Maryland Department of Transportation, which is an Agency of the State of Maryland, for discharges in excess of permitted effluent limits and failure to meet requirements set forth in MAA's National Pollutant Discharge Elimination System permit for its facility at the Baltimore Washington International Airport in Glen Burnie, Anne Arundel County, Maryland. Components of the settlement agreement include: (1) Injunctive provisions designed to reduce the amount of deicing fluid discharged; (2) a penalty payment of $50,000; (3) a Supplemental Environmental Project to perform a fish study valued at $90,000; and (4) a payment of $50,000 to the citizen plaintiffs for their attorneys fees and costs associated with the related civil action: WMN–98–784.

The Department of Justice will receive comments relating to the proposed consent decree for a period of thirty days from the date of publication of this notice. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Maryland Aviation Administration, a Unit of the Maryland DOT,* DOT Ref. No. 90–5–1–1–4543. The proposed Consent Decree may be examined at the office of the United States Attorney, District of Maryland, 604 United States Courthouse, 101 West Lombard Street, Baltimore, MD 21201. Copies of the consent decree may also be examined at the offices of the Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. A copy of the Consent Decree may also be obtained by mail from the Department of Justice Consent Decree Library, P.O. Box 7611, Washington, DC 20044. When requesting a copy by mail, please enclose a check in the amount of $10.75 (twenty-five cents per page reproduction costs), payable to the ''Consent Decree Library.''

Bruce Gelber,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–27006 Filed 10–19–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Air Act, the Clean Water Act, the Comprehensive Environmental Response, Compensation and Liability Act, and the Emergency Planning and Community Right-to-Know Act

Consistent with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed Consent Decree in *United States* v. *Mobil Oil Corporation*, Civil Action No. 0010454 was lodged with the United States District Court for the Central District of California on September 28, 2000. On the same day, the United States filed a Complaint pursuant to section 113(b) of the Clean Air Act, section 309(b) of the Clean Water Act, section 109(c) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, and section 325(b) of Emergency Planning and Community Right-to-Know Act against Mobil, alleging a variety of violations of federal environmental law at Mobil's Torrance, California refinery. The violations included improper laboratory practices, exceedences of the limits of its National Pollution Discharge Elimination System Permit, failure to conduct inspections of refinery equipment and failure to timely report releases of hazardous substances into the environment. The proposed Consent Decree, which settles the liability of

Mobil for the violations alleged in the Complaint, provides that Mobile will undertake extensive injunctive relief, pay a civil penalty of $500,000 and perform two Supplemental Environmental Projects valued at $1 million. One SEP involves the purchase of emergency response equipment for use by the local fire department. The second SEP involves studying and implementing water conservation projects at the refinery.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed Consent Decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, U.S. Department of Justice, Box 7611, Washington, DC 20044, and refer to *United States* v. *Mobil Oil Corporation*, DOJ Ref. #90–5–2–1–2121.

The proposed settlement agreement may be examined at the Office of the United States Attorney, Federal Building, 300 North Los Angeles Street, Los Angeles, California 90012 and at the Office of the Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105. A copy of the proposed Consent Decree may also be obtained by mail from the Department of Justice Consent Decree Library, Box 7611, Washington, DC 20044. In requesting a copy, please refer to the referenced case and enclose a check in the amount of $13.25 (Consent Decree only) or $43.75 (Consent Decree with Appendices) (25 cents per page reproduction costs), payable to the Consent Decree Library.

Bruce Gelber,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 00–27001 Filed 10–19–00; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF LABOR

Employment Standards Administration, Wage and Hour Division

Minimum Wage for Federal and Federally Assisted Construction; General Wage Determination Decisions

General wage determination decisions of the Secretary of Labor are issued in accordance with applicable law and are based on the information obtained by the Department of Labor from its study of local wage conditions and data made available from other sources. They specify the basic hourly wage rates and fringe benefits which are determined to be prevailing for the described classes of laborers and mechanics employed on construction projects of a similar character and in the localities specified therein.

The determinations in these decisions of prevailing rates and fringe benefits have been made in accordance with 29 CFR part 1, by authority of the Secretary of Labor pursuant to the provisions of the Davis-Bacon Act of March 3, 1931, as amended (46 Stat. 1494, as amended, 40 U.S.C. 276a) and of other Federal statutes referred to in 29 CFR part 1, appendix, as well as such additional statutes as may from time to time be enacted containing provisions for the payment of wages determined to be prevailing by the Secretary of Labor in accordance with the Davis-Bacon Act. The prevailing rates and fringe benefits determined in these decisions shall, in accordance with the provisions of the foregoing statutes, constitute the minimum wages payable on Federal and federally assisted construction projects to laborers and mechanics of the specified classes engaged on contract work of the character and in the localities described therein.

Good cause is hereby found for not utilizing notice and public comment procedure thereon prior to the issuance of these determinations as prescribed in 5 U.S.C. 553 and not providing for delay in the effective date as prescribed in that section, because the necessity to issue current construction industry wage determinations frequently and in large volume causes procedures to be impractical and contrary to the public interest.

General wage determination decisions, and modifications and supersedes decisions thereto, contain no expiration dates and are effective from their date of notice in the **Federal Register**, or on the date written notice is received by the agency, whichever is earlier. These decisions are to be used in accordance with the provisions of 29 CFR parts 1 and 5. Accordingly, the applicable decision, together with any modifications issued, must be made a part of every contract for performance of the described work within the geographic area indicated as required by an applicable Federal prevailing wage law and 29 CFR part 5. The wage rates and fringe benefits, notice of which is published herein, and which are contained in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon And Related Acts,'' shall be the minimum paid by contractors and subcontractors to laborers and mechanics.

Any person, organization, or governmental agency having an interest in the rates determined as prevailing is encouraged to submit wage rate and fringe benefit information for consideration by the Department. Further information and self-explanatory forms for the purpose of submitting this data may be obtained by writing to the U.S. Department of Labor, Employment Standards Administration, Wage and Hour Division, Division of Wage Determinations, 200 Constitution Avenue, NW., Room S–3014, Washington, DC 20210.

Modifications to General Wage Determination Decisions

The number of decisions listed in the Government Printing Office document entitled ''General Wage Determinations Issued Under the Davis-Bacon and Related Acts'' being modified are listed by Volume and State. Dates of publication in the **Federal Register** are in parentheses following the decisions being modified.

Volume I

None

Volume II

Pennsylvania
PA000006 (Feb. 11, 2000)

Volume III

Florida
FL000032 (Feb. 11, 2000)
Kentucky
KY000002 (Feb. 11, 2000)
KY000007 (Feb. 11, 2000)
KY000026 (Feb. 11, 2000)
KY000027 (Feb. 11, 2000)
KY000029 (Feb. 11, 2000)
Mississippi
MS000003 (Feb. 11, 2000)

Volume IV

Michigan
MI000060 (Feb. 11, 2000)
MI000062 (Feb. 11, 2000)
MI000063 (Feb. 11, 2000)
MI000064 (Feb. 11, 2000)
MI000066 (Feb. 11, 2000)
MI000067 (Feb. 11, 2000)
MI000068 (Feb. 11, 2000)
MI000069 (Feb. 11, 2000)
MI000070 (Feb. 11, 2000)
MI000071 (Feb. 11, 2000)
MI000072 (Feb. 11, 2000)
MI000073 (Feb. 11, 2000)
MI000074 (Feb. 11, 2000)
MI000075 (Feb. 11, 2000)
Ohio
OH000003 (Feb. 11, 2000)
OH000023 (Feb. 11, 2000)
OH000028 (Feb. 11, 2000)
OH000029 (Feb. 11, 2000)

Volume V

None

Volume VI

Idaho

ID000001 (Feb. 11, 2000)
ID000002 (Feb. 11, 2000)
ID000003 (Feb. 11, 2000)
Oregon
OR000001 (Feb. 11, 2000)
OR000004 (Feb. 11, 2000)
OR000017 (Feb. 11, 2000)
Washington
WA000001 (Feb. 11, 2000)
WA000002 (Feb. 11, 2000)
WA000005 (Feb. 11, 2000)
WA000007 (Feb. 11, 2000)

Volume VII

California
CA000001 (Feb. 11, 2000)
CA000002 (Feb. 11, 2000)
CA000028 (Feb. 11, 2000)
CA000031 (Feb. 11, 2000)
CA000032 (Feb. 11, 2000)
CA000033 (Feb. 11, 2000)
CA000034 (Feb. 11, 2000)
CA000035 (Feb. 11, 2000)
CA000036 (Feb. 11, 2000)
CA000037 (Feb. 11, 2000)
CA000038 (Feb. 11, 2000)
CA000039 (Feb. 11, 2000)
CA000040 (Feb. 11, 2000)

General Wage Determination Publication

General wage determinations issued under the Davis-Bacon and related Acts, including those noted above, may be found in the Government Printing Office (GPO) document entitled ''General Wage Determinations Issued Under The Davis-Bacon and Related Acts.'' This publication is available at each of the 50 Regional Government Depository Libraries and many of the 1,400 Government Depository Libraries across the country.

The general wage determinations issued under the Davis-Bacon and related Acts are available electronically by subscription to the FedWorld Bulletin Board System of the National Technical Information Service (NTIS) of the U.S. Department of Commerce at 1–800–363–2068

Hard-copy subscriptions may be purchased from:

Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402, (202) 512–1800

When ordering hard-copy subscription(s), be sure to specify the State(s) of interest, since subscriptions may be ordered for any or all of the seven separate volumes, arranged by State. Subscriptions include an annual edition (issued in January or February) which includes all current general wage determinations for the States covered by each volume. Throughout the remainder of the year, regular weekly updates are distributed to subscribers.

Signed at Washington, DC This 12th Day of October 2000.

Carl J. Poleskey,

Chief, Branch of Construction Wage Determinations.

[FR Doc. 00–26715 Filed 10–19–00; 8:45 am]

BILLING CODE 4510–27–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (00–128)]

Notice of Prospective Patent License

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of Prospective Patent License.

SUMMARY: NASA hereby gives notice that Cyrospace Technologies, of Houston, Texas has applied for an exclusive license to practice the inventions disclosed in U.S. Patent Nos. 5,651,079 and 5,963,683 both entitled ''Photonic Switching Devices Using Light Bullets'' which are assigned to the United States of America as represented by the Administrator of the National Aeronautics and Space Administration. Written objections to the prospective grant of a license should be sent to Ames Research Center.

DATES: Response to this notice must be received on or before December 19, 2000.

FOR FURTHER INFORMATION CONTACT: Rob Padilla, Patent Counsel, NASA Ames Research Center, Mail Stop 202A–3, Moffett Field, CA 94035–1000, telephone (650) 604–5104.

Dated: October 13, 2000.

Edward A. Frankle,

General Counsel.

[FR Doc. 00–26977 Filed 10–19–00; 8:45 am]

BILLING CODE 7510–01–P

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of permit applications received under the Antarctic Conservation Act of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act at Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to this permit application by November 17, 2000. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 292–7405.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the ''Agreed Measures for the Conservation of Antarctic Fauna and Flora'' for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The applications received are as follows:

1. Applicant

Colin M. Harris, Director, Environmental Research And Assessment, British Antarctic Survey, Madingley Road, High Cross, Cambridge CB3 OET, United Kingdom

[Permit application No. 2001–023]

Activity for Which Permit is Requested: Take and Enter Antarctic Specially Protected Areas. The applicant is undertaking a project, supported by the National Antarctic Programs of the U.S. and U.K., to revise the Management Plans of several Antarctic Specially Protected Areas. The applicant will access these sites to: verify, describe and map features of the areas; conduct an on-site assessment of the features under protection; describe scientific work conducted at the site; assess whether the area continues to serve the purpose for which it was designated; identify and map, using GPS, the protected area boundaries; and, define designated photo points for covering the most import features of the site. In addition, the applicant will collect plant and soil samples from within the sites for later analysis to determine identity of the soil's vegetation and invertebrates.

Location: ASPA 107—Dion Islands, Marguerite Bay, ASPA 108—Green Island, Berthelot Islands, ASPA 113—Litchfield Island, Arthur Harbor, Palmer

Archipelago, ASPA 115—Lagotellerie Island, Marguerite Bay, ASPA 117—Avian Island, Marguerite Bay, ASPA 126—Byers Peninsula, Livingston Island, ASPA 139—Biscoe Point, Anvers Island, Palmer Archipelago, ASPA 147—Ablation Point-Ganymede Heights, Alexander Island, ASPA 148—Mount Flora, Hope Bay, Antarctic Peninsula, ASPA 149—Cape Shireff, Livingston Island, South Shetlands, ASPA 153—East Dallmann Bay, off Brabant Island.

Dates: January 1, 2001 to March 31, 2001.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 00–27074 Filed 10–19–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Advanced Networking and Infrastructure Research; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meetings of the Special Emphasis Panel in Advanced Networking and Infrastructure (1207):

1. *Date/Time:* November 7, 2000; 8:00 AM–5:00 PM.
Place: Room 220, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

2. *Date/Time:* November 13–14, 2000; 8:00 AM–5:00 PM.
Place: Room 1120, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

3. *Date/Time:* November 15, 2000; 8:00 AM–5:00 PM.
Place: Room 1120, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

4. *Date/Time:* November 21, 2000; 8:00 AM–5:00 PM.
Place: Room 1175, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

5. *Date/Time:* December 4–5, 2000; 8:00 AM–5:00 PM.
Place: Room 1150, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

6. *Date/Time:* December 6, 2000; 8:00 AM–5:00 PM.
Place: Room 220, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meetings: Closed.
Contact Person: Karen Sollins, Division of Advanced Networking Infrastructure Research, Room 1175, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone (703) 292–8950.
Agenda: To review and evaluate proposals submitted to the Networking Research and Special Projects Programs as part of the selection process for awards.
Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals.
These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 16, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–26983 Filed 10–19–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering and Environmental Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Bioengineering and Environmental Systems (1189).
Date and Time: November 8, 2000, 8 a.m.–5 p.m.
National Science Foundation, 4201 Wilson Boulevard, Room 380, Arlington, VA.
Type of Meeting: Closed.
Contact Person: A. Frederick Thompson and Nicholas L. Clesceri, Program Directors, Division of Bioengineering and Environmental Systems, National Science Foundation; 4201 Wilson Boulevard, Arlington, Virginia 22230; Telephone: (703) 292–8320.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate Environmental Engineering 2001 CAREER Proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 16, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–26979 Filed 10–19–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Biological Sciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Biological Sciences (BIO) (1110).
Date and Time:

November 16, 2000; 8:30 a.m.–5 p.m.
November 17, 2000; 8:30 a.m.–3 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 1235, Arlington, VA.
Type of Meeting: Open.
Contact Person: Dr. Mary E. Clutter, Assistant Director, Biological Sciences, Room 605, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 292–8400.
Minutes: May be obtained from the contact person listed above.
Purpose of Meeting: The Advisory Committee for BIO provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BIO.
Agenda: GPRA Performance Evaluation and Planning Discussion.

Dated: October 16, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–26981 Filed 10–19–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Chemical and Transport Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Chemical and Transport Systems (1190).
Date and Time: November 20, 2000; 8:30 a.m. to 5 p.m.
Place: 4201 Wilson Boulevard, Room 530, Arlington, VA 22230.
Type of Meeting: Closed.
Contact Person: Dr. Stefan T. Thynell, Program Director, Thermal Transport & Thermal Processing, Division of Chemical & Transport Systems, 4201 Wilson Boulevard, Room 525, Arlington, VA 22230. (703) 292–8371.
Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.
Agenda: To review and evaluate nominations for the FY 2000 Career Panel of proposals as part of the selection process for awards.
Reason for Closing: The proposals being reviewed include information of a

proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 16, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–26982 Filed 10–19–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Civil and Mechanical Systems; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meetings of the Special Emphasis Panel in Civil and Mechanical Systems (1205):

Date and Time: November 13–14, 2000, 8 a.m. to 5 p.m.

Place: 4201 Wilson Boulevard, Room 470, Arlington, VA.

Contact Person: Dr. Thomas Anderson, Program Director Network for Engineering Simulation, Division of Civil and Mechanical Systems, National Science Foundation, 4201 Wilson Boulevard, Room 545, Arlington, VA 22230. Telephone: (703) 292–8360.

Agenda: To review and evaluate nominations for the FY'01 NEES Equipment Portfolio Construction and Management Team Review Panel as part of the selection process for awards.

Date and Time: November 20–21, 2000, 8 a.m. to 5 p.m.

Place: 4201 Wilson Boulevard, Room 380, Arlington, VA.

Contact Person: Dr. Miriam Heller, Program Director, Information Technology and Infrastructure Systems, Division of Civil and Mechanical Systems, National Science Foundation, 4201 Wilson Boulevard, Room 545, Arlington, VA 22230. Telephone: (703) 292–8360.

Agenda: To review and evaluate nominations for the FY'00 Mechanics and Structures of Materials and Surface Engineering and Material Design Review Panel as part of the selection process for awards.

Date and Time: December 14–15, 2000, 8 a.m. to 5 p.m.

Place: 4201 Wilson Boulevard, Room 380, Arlington, VA.

Contact Person: Dr. Miriam Heller, Program Director, Information Technology and Infrastructure Systems, Division of Civil and Mechanical Systems, National Science Foundation, 4201 Wilson Boulevard, Room 545, Arlington, VA 22230. Telephone: (703) 292–8360.

Agenda: To review and evaluate nominations for the FY'00 Mechanics and Structures of Materials and Surface Engineering and Material Design Review Panel as part of the selection process for awards.

TYPE OF MEETINGS: Closed.

PURPOSE OF MEETINGS: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 16, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–26978 Filed 10–19–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Computing-Communications Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meetings of the Special Emphasis Panel in Computing-Communications Research (1192):

Date/Time: October 28–29, 2000; 8 a.m.–5 p.m.

Place: The Asilomar Conference Grounds, 800 Asilomar Boulevard, Pacific Grove, CA.

Contact Person: John Cozzens, Program Director, Signal Processing System (SPS), CISE/CCR, Room 1145, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230; (703) 292–8912.

Agenda: To review and evaluate SPS CAREER proposals as a part of the selection process for awards.

Date/Time: November 8–10, 2000; 8 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd, Room 1120, Arlington, VA.

Contact Person: Wm. Randolph Franklin, Program Director, Numeric, Symbolic & Geometric Computation, Room 1145, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230; (703) 292–1912.

Agenda: To review and evaluate NSG CAREER proposals as a part of the selection process for awards.

Date/Time: November 29–30, 2000; 8 a.m.–6 p.m.

Place: National Science Foundation, 4201 Wilson Blvd, Room 1150, Arlington, VA.

Contact Person: Yavuz Oruc, Program Director, Computer Systems Architecture, Room 1145, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230; (703) 292–8936.

Agenda: To review and evaluate Computer Systems Architecture CAREER proposals as a part of the selection process for awards.

Purpose of Meetings: Provide advice and recommendations concerning proposals submitted to NSF for financial support.

Type of Meetings: Closed.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information, financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 16, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–26980 Filed 10–19–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Human Resource Development; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Human Resource Development (#1199).

Date and Time: October 24, 2000: 10:00 a.m. to 5:00 p.m.; October 25, 2000: 8:30 a.m. to 5:00 p.m.

Place: Hilton Arlington and Towers, 950 North Stafford Street, Arlington, VA 22203.

Type of Meeting: Closed.

Contact Person: Dr. Larry S. Scadden, Program Directors, Human Resource Development Division, Room 815, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 292–8636.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate formal proposals submitted to the Program for Persons with Disabilities.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 16, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–26984 Filed 10–19–00; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Methods, Cross-Directorate and Science and Society; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meetings of the Advisory Panel for Methods, Cross-Directorate and Science and Society (1760):

Date/Time: December 4–5, 2000, 8 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 920, Arlington, VA.

Contact Person: Bonney H. Sheahan, Program Director for Cross Directorate Programs; National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–8763.

Agenda: To review and evaluate REU proposals as part of the selection process for awards.

Date/Time: December 13–15, 2000; 8 a.m.–5 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Rm. 365/920, Arlington, VA.

Contact Person: Paul Chapin, Program Director for Cross Directorate Programs; National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 292–1733.

Agenda: To review and evaluate Infrastructure proposals as part of the selection process for awards.

TYPE OF MEETINGS: Closed.

PURPOSE OF MEETINGS: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

REASON FOR CLOSING: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: October 16, 2000.

Karen J. York,

Committee Management Officer.

[FR Doc. 00–26985 Filed 10–19–00; 8:45 am]

BILLING CODE 7555–01–M

NORTHEAST DAIRY COMPACT COMMISSION

Notice of Meeting

AGENCY: Northeast Dairy Compact Commission.

ACTION: Notice of meeting.

SUMMARY: The Compact Commission will hold its regular monthly meeting to consider matters relating to administration and enforcement of the price regulation, including the reports and recommendations of the Commission's standing Committees.

DATES: The meeting will begin at 10:00 a.m. on Wednesday, November 1, 2000.

ADDRESSES: The meeting will be held at the Centennial Inn, Armenia White Room, 96 Pleasant Street, Concord, New Hampshire.

FOR FURTHER INFORMATION CONTACT: Daniel Smith, Executive Director, Northeast Dairy Compact Commission, 34 Barre Street, Suite 2, Montpelier, VT 05602. Telephone (802) 229–1941.

Authority: 7 U.S.C. 7256.

Dated: October 16, 2000.

Daniel Smith,

Executive Director.

[FR Doc. 00–26973 Filed 10–19–00; 8:45 am]

BILLING CODE 1650–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards will hold a meeting on November 2–4, 2000, in Conference Room T–2B3, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Thursday, October 14, 1999 (64 FR 55787).

Thursday, November 2, 2000

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 A.M.–10:45 A.M.: Proposed Final Report of the Technical Study of Spent Fuel Pool Accident Risk at Decommissioning Nuclear Power Plants (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the revised version of the report and the staff's response to previous ACRS concerns.

11:00 A.M.–12:30 P.M.: Risk-Informed Regulation Implementation Plan (RIRIP) (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the update to the RIRIP.

1:30 P.M.–2:30 P.M.: Proposed Framework for Risk-Informed Changes to the Technical Requirements of 10 CFR Part 50 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the proposed NRC framework for risk-informed changes to the technical requirements of 10 CFR Part 50 described in SECY–00–0198, Attachment 1.

2:30 P.M.–4:30 P.M.: Differing Professional Opinion (DPO) on Steam Generator Tube Integrity (Open)—The Committee will hear a report by the Ad Hoc Subcommittee Chairman regarding the outcome of the October 10–14, 2000 subcommittee meeting and hold discussions with the DPO author and representatives of the NRC staff, as needed, on additional information related to DPO issues.

4:30 P.M.–5:30 P.M.: Break and Preparation of Draft ACRS Reports (Open)—Cognizant ACRS members will prepare draft reports, as needed, for consideration by the full Committee.

5:30 P.M.–7:00 P.M.: Discussion of Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting.

Friday, November 3, 2000

8:30 A.M.–8:35 A.M.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 A.M.–10:30 A.M.: Performance-Based, Risk-Informed Fire Protection Standard for LWRs and Related Issues (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff, Nuclear Energy Institute (NEI), and National Fire Protection Association (NFPA) on the revised NFPA 805 standard, post-fire safe shutdown circuit analysis, and other related fire protection issues.

10:45 A.M.–12:00 Noon: ABB/CE and Siemens Digital I&C Applications (Open)—The Committee will hear a report by the Subcommittee Chairman on a subcommittee meeting on this matter and his recommendation regarding further review by the full Committee.

1:00 P.M.–3:00 P.M.: License Renewal Guidance Documents (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding proposed Standard Review Plan for license renewal, Generic Aging Lessons Learned Report, Regulatory Guide, and NEI 95–10, ''Industry Guidelines for Implementing the

Requirements of the License Renewal Rule.''

3:15 P.M.–4:30 P.M.: Research Report to the Commission (Open)—The Committee will discuss the current status of the draft report.

4:30 P.M.–5:00 P.M.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, and organizational and personnel matters relating to the ACRS.

5:00 P.M.–5:15 P.M.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations (EDO) to comments and recommendations included in recent ACRS reports and letters. The EDO responses are expected to be made available to the Committee prior to the meeting.

5:15 P.M.–6:00 P.M.: Break and Preparation of Draft ACRS Reports (Open)—Cognizant ACRS members will prepare draft reports, as needed, for consideration by the full Committee.

6:00 P.M.–7:30 P.M.: Discussion of Proposed ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Saturday, November 4, 2000

8:30 A.M.–1:00 P.M.: Discussion of Proposed ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

1:00 P.M.–1:30 P.M.: Miscellaneous (Open)—The Committee will discuss matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 11, 2000 (65 FR 60476). In accordance with these procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting and questions may be asked only by members of the Committee, its consultants, and staff. Persons desiring to make oral statements should notify Mr. James E. Lyons, ACRS, five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting Mr. James E. Lyons prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with Mr. James E. Lyons if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements, and the time allotted therefor can be obtained by contacting Mr. James E. Lyons (telephone 301–415–7371), between 7:30 a.m. and 4:l5 p.m., EDT.

ACRS meeting agenda, meeting transcripts, and letter reports are available for downloading or viewing on the internet at http://www.nrc.gov/ACRSACNW.

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., EDT, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: October 16, 2000.

Andrew L. Bates,

Advisory Committee Management Officer.

[FR Doc. 00–26990 Filed 10–19–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Safety Research Program; Notice of Meeting

The ACRS Subcommittee on Safety Research Program will hold a meeting on November 1, 2000, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Wednesday, November 1, 2000—8:30 a.m. until the conclusion of business

The Subcommittee will discuss the 2001 draft ACRS report to the Commission regarding the NRC Safety Research Program and related matters. In addition, it will meet with representatives of the NRC Office of Nuclear Regulatory Research to discuss the ongoing and proposed research activities, as needed. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting the cognizant ACRS staff engineer, Dr. Medhat El-Zeftawy (telephone 301/415–6889) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes in the proposed agenda, etc., that may have occurred.

Dated: October 16, 2000.

Sam Duraiswamy,

Acting Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 00–26991 Filed 10–19–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Thermal-Hydraulic Phenomena; Notice of Meeting

The ACRS Subcommittee on Thermal-Hydraulic Phenomena will hold a meeting on November 13–14, 2000, Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

Most of the November 13, 2000 meeting session will be closed to public attendance to discuss proprietary information per 5 U.S.C. 552b(c)(4) pertinent to General Electric (GE) Nuclear Energy.

The agenda for the subject meeting shall be as follows:

Monday, November 13, 2000—8:30 a.m. until the conclusion of business

Tuesday, November 14, 2000—8:30 a.m. until the conclusion of business

The Subcommittee will (1) begin review of the GE Nuclear Energy TRACG thermal-hydraulic code, and (2) continue review of the NRC Office of Nuclear Regulatory Research thermal-hydraulic research program pursuant to development of the ACRS annual report to the Commission on NRC safety research. The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman. Written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of General Electric Nuclear Energy, the NRC staff, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Paul A. Boehnert (telephone 301–415–8065) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: October 12, 2000.

James E. Lyons,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 00–26992 Filed 10–19–00; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Subcommittee Meeting on Severe Accident Management; Notice of Meeting

The ACRS Subcommittee on Severe Accident Management will hold a meeting on November 15, 2000, in Room T–2B3, 11545 Rockville Pike, Rockville, Maryland.

The agenda for the subject meeting shall be as follows:

Wednesday, November 15, 2000—8:30 a.m. until the conclusion of business

The Subcommittee will: (1) Continue its review of the NRC Office of Nuclear Regulatory Research severe accident management research program in accordance with the development of the ACRS annual report to the Commission on NRC safety research, and (2) continue review of the activities of the NRC staff and the nuclear industry under the auspices of the Nuclear Energy Institute (NEI) pursuant to revision of the NEI guideline document NEI, 99–03, ''Control Room Habitability Assessment Guidance.'' The purpose of this meeting is to gather information, analyze relevant issues and facts, and to formulate proposed positions and actions, as appropriate, for deliberation by the full Committee.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman. Written statements will be accepted and made available to the Committee. Electronic recordings will be permitted only during those portions of the meeting that are open to the public, and questions may be asked only by members of the Subcommittee, its consultants, and staff. Persons desiring to make oral statements should notify the cognizant ACRS staff engineer named below five days prior to the meeting, if possible, so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the Nuclear Energy Institute, the nuclear industry, the NRC staff, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, the scheduling of sessions which are open to the public, and the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor, can be obtained by contacting the cognizant ACRS staff engineer, Mr. Paul A. Boehnert (telephone 301–415–8065) between 7:30 a.m. and 4:15 p.m. (EDT). Persons planning to attend this meeting are urged to contact the above named individual one or two working days prior to the meeting to be advised of any potential changes to the agenda, etc., that may have occurred.

Dated: October 12, 2000.

James E. Lyons,

Associate Director for Technical Support, ACRS/ACNW.

[FR Doc. 00–26993 Filed 10–19–00; 8:45 am]

BILLING CODE 7590–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

SUMMARY OF PROPOSAL(S):

(1) *Collection title:* Employer Reporting.

(2) *Form(s) submitted:* G–251a, G–251b.

(3) *OMB Number:* 3220–0193.

(4) *Expiration date of current OMB clearance:* 12/31/2000.

(5) *Type of request:* Revision of a currently approved collection.

(6) *Respondents:* Business or other for-profit.

(7) *Estimated annual number of respondents:* 430.

(8) *Total annual responses:* 430.

(9) *Total annual reporting hours:* 144.

(10) *Collection description:* The collection obtains information used by the Railroad Retirement Board (RRB) to assist in determining whether a railroad employee is disabled from his or her regular occupation. It provides, under certain circumstances, railroad employers with the opportunity to provide the information to the RRB regarding the employee applicant's job duties.

ADDITIONAL INFORMATION OR COMMENTS: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois, 60611–2092 and the OMB reviewer, Joe Lackey (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 00–26999 Filed 10–19–00; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

[Realease No. 35–27249]

Filings Under the Public Utility Holding Company Act of 1945, as Amended (''Act'')

October 13, 2000.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated undera the Act. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) is/are available for public inspection through the Commission's Branch of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by November 7, 2000, to the Secretary, Securities and Exchange Commission, Washington, DC 20549–0609, and serve a copy on the relevant application(s) and/or at the address(es) specified below. Proof of service (by affidavit or, in the case of an attorney at law, by certificate) should be filed with the request. Any request for hearing should identify specifically the issues of facts or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After November 7, 2000, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

GPU, Inc (70–8695)

GPU, Inc., 300 Madison Avenue, Morristown, New Jersey 07960 (''GPU''), a registered holding company, has filed with the Commission a post-effective amendment to its declaration under sections 6(a) and 7 and rules 53 and 54 of the Act.

By prior Commission order in this proceeding dated December 8, 1995 (HCAR No. 26426) (''1995 Order''), GPU, formerly General Public Utilities Corporation, was authorized to issue and sell from time to time through December 31, 2000 up to 250,000 authorized by unissued or previously reacquired shares of GPU common stock, $2.50 par value (''Common Stock''), to certain GPU system employees (''Participants'') under the GPU, Inc. and Secondary System Companies Employee Savings Plan for Nonbargaining Employees and the Employee Savings Plan for Bargaining Unit Employees for each of GPU's electric utility subsidiaries, Jersey Central Power & Light Company, Metropolitan Edison Company and Pennsylvania Electric Company (collectively, ''Savings Plans'').

To date, GPU has not issued any shares of Common Stock under the 1995 Order in connection with the Savings Plans. GPU requests an extension to December 31, 2005 of the time during which it may issue and sell the 250,000 authorized by unissued or previously reacquired shares of Common Stock under the Savings Plans, in order to maintain the flexibility the 1995 order affords.

GPU currently has 350 million authorized shares of Common Stock of which 121,332,510 shares were outstanding at September 30, 2000. At October 11, 2000, the reported closing price of GPU Common Stock on the New York Stock Exchange was $32.38. GPU will use the net proceeds from the sale of additional stock to the Savings Plans to make cash capital contributions to its subsidiaries, for working capital, to repay outstanding indebtedness and for other corporate purposes.

GPU states the Savings Plans are designed to encourage and assist savings and investment by eligible employees through voluntary contributions by employees of a portion of their compensation and by the matching of certain of these contributions by the Participant's employer.

Amounts contributed to the Savings Plans by or on behalf of each Participant are held by a trustee. Separate plan accounts and, as necessary, sub-accounts are maintained for each Participant. The trustee invests the amounts held in plan accounts and sub-accounts in the investment fund or funds selected by the Participant. The investment funds from which Participants may choose currently consist of eleven funds including the ''GPU Stock Fund'' which is designed to provide employees with a convenient way to invest in GPU common stock by providing participants the opportunity to direct that all or a portion of their plan accounts be invested in the GPU Stock Fund.

The Savings Plans currently provide that GPU Common Stock acquired for the GPU Stock Fund by the trustee be purchased in open market transactions through brokers. In order to provide additional equity capital, GPU proposes that shares of its Common Stock acquired by Participants through the GPU Stock Fund may be either purchased by the trustee, directly from GPU or in open market transactions, as is now the case.

The purchase price per share paid by Participants would be the New York Stock Exchange closing price for GPU Common Stock for the date on which the purchase of the share is executed.

The Southern Company, et al. (70–9727)

The Southern Company (''Southern''), 270 Peachtree Street, N.W., Atlanta, Georgia 30303, a registered holding company, and its subsidiaries, Southern Energy, Inc. (''Southern Energy,'' formerly SEI Holdings, Inc.) and Southern Energy Resources, Inc. (''SERI,'' formerly Southern Electric International, Inc.), both of 900 Ashwood Parkway, Suite 500, Atlanta, Georgia 30338 (collectively, ''Applicants''), have filed an application-declaration under sections 6(a), 7, 9(a), 10, 12, 13, 32 and 33 and rules 43, 44, 45, 53, 54, 90 and 91 of the Act.

Applicants request authority in order: (1) To extend and renew the organizational and operational authority previously conferred by the Commission, (described below as ''Existing Organizational and

Operational Authority'') in The Southern Company, HCAR No. 26468 (February 2, 1996) (''1996 Order'') beyond the current expiration date of December 31, 2000 [1] in order to facilitate the divestiture by Southern of Southern Energy during calendar year 2001; [2] (2) to obtain required authorizations pertaining to the implementation of the plan for the distribution during calendar year 2001 of the voting securities of Southern Energy by Southern to the common stock stockholders of Southern (''Distribution''); and (3) for Southern to retain the Existing Organizational and Operational Authority through June 30, 2005, subject to compliance with the other applicable rules, regulations and orders of the Commission.

I. Existing Organizational and Operational Authority

Through its 1996 Order, the Commission authorized the Applicants to carry out the restructuring and consolidation of Southern's interests in exempt wholesale generator (''EWGs''), foreign utility companies (''FUCOs'') and Qualifying Facilities (''QFs'') (collectively, ''Exempt Projects'') and certain other non-utility activities under Southern Energy.

The 1996 Order also authorized Applicants ''to organize one or more intermediate subsidiaries to make investments in Exempt Projects, other power projects, and Energy-Related Companies,[3] and to provide project development and management services to projects and companies held by them ('Intermediate Subsidiaries'), and to organize one or more special purpose subsidiaries to engage in any of the activities in which [SERI] is currently authorized [4] to engage ('Special Purpose Subsidiaries') * * *.'' [5]

The 1996 Order also authorized Southern Energy to acquire directly or indirectly, Energy Related Companies engaged in energy marketing (''Marketing Subsidiaries''). [6] By order dated September 26, 1996 (''September 1996 Order''),[7] the Commission authorized Southern Energy, to broker or market electric power and other energy commodities throughout the United States, using one or more Marketing Subsidiaries.[8] The Commission reserved jurisdiction in the September 1996 Order over the expansion of these activities outside the United States. On May 13, 1999, the Commission also authorized the acquisition of Marketing Subsidiaries that engaged in energy marketing in Canada, through December 21, 2003.[9]

The 1996 Order also authorized Special Purpose Subsidiaries to provide services or sell goods to any associate engaged in the development or operation of EWGs, FUCOs or QFs, either directly or indirectly through its related Intermediate Subsidiary, at fair market prices. The 1996 Order, under section 13(b) of the Act, exempted certain transactions from the requirements of rules 90 and 91 in which any of the following circumstances apply:

1. The Exempt Project derives no part of its income, directly or indirectly, from the generation, transmission or distribution of electric energy for sale within the United States;

2. The Exempt Project company is an EWG that sells electricity at market-based rates which have been approved by the Federal Energy Regulatory Commission (''FERC''), provided that the purchaser is not an associate public utility company of the Special Purpose Subsidiary within the Southern system; [10]

3. The Exempt Project company is a QF that sells electricity exclusively: (a) At rates negotiated at arms'-length to one or more industrial or commercial customers purchasing the electricity for their own use and not for resale; and/or (b) to an electric utility company of the Special Purpose Subsidiary within the Southern system, at the purchaser's ''avoided cost'' as determined in accordance with the regulations under the Public Utility Regulatory Policies Act of 1978; or

4. The Exempt Project company is an EWG or QF that sells electricity at rates based upon its cost of service, as approved by FERC or any state public utility commission having jurisdiction, provided that the purchaser thereof is not an associate public utility company of such Special Purpose Subsidiary within the Southern system.

By order dated December 30, 1994,[11] the Commission authorized Special Purpose Subsidiaries to engage in development activities (''Development Activities'') pertaining to the potential acquisition and ownership of QFs and facilities to be owned or operated by EWGs and FUCOs, and other power production facilities which, when placed in operation, would be a part of Southern's ''integrated public-utility system,'' within the meaning of section 2(a)(29)(A) of the Act, together with ancillary facilities and equipment, such as may be used for fuel production, conversion, handling and/or storage; electrical transmission; and energy management, recovery and efficiency. The development activities of SERI and Special Purpose Subsidiaries include and are limited to project due diligence and design review; market studies; site inspection; preparation of bid proposals, including, posting of bid bonds, cash deposits or the like; application for required permits and/or regulatory approvals; acquisition of site options and options on other necessary rights; negotiation and execution of contractual commitments with owners of existing facilities, equipment vendors, construction firms, power purchasers, thermal host users, fuel suppliers and other project contractors; negotiation of financing commitments with lenders and equity co-investors; and such other preliminary development activities as may be required in preparation for the acquisition or financing. SERI was authorized to expend up to $300 million in Development Activities,[12] Applicants

[1] The 1996 Order authorizes Southern to issue performance guarantees to Southern Energy through December 31, 2003.

[2] Applicants expect the divestiture to occur in the first half of 2001.

[3] The 1996 Order pre-dates the enactment of rule 58, however, the 1996 Order defined Energy-Related Companies in anticipation of the adoption of rule 58 and subject to the definition expressed in rule 58.

[4] By order dated December 30, 1994 (HCAR No. 26212), Southern Electric International, Inc. (now SERI) was authorized to engage in preliminary project development activities and the sale of operating construction, project management, administrative and other services to associates and nonassociates.

[5] HCAR No. 26468 (February 2, 1996).

[6] The order required that either the buyer or seller, or both, be located within the area covered by the Southeastern Electric Reliability Council (''SERC''). SERC includes all or part of the states in which the Public Utilities provide retail electric service (i.e., Georgia, Alabama, Mississippi and Florida) and all or part of North Carollina, South Carolina, Virginia, Tennessee and Kentucky. See also HCAR No. 27020 (May 13, 1999).

[7] Holding Co. Act Release No. 26581.

[8] The authority of the Marketing Subsidiaries is co-extensive with the energy marketing authority subsequently conferred by rule 58.

[9] Holding Co. Act Release No. 27020.

[10] File No. 70–8733, Amendment No. 3, HCAR No. 26468 (February 2, 1996). See also HCAR No. 26212 (December 30, 1994).

[11] HCAR No. 26212.

[12] Authorized Development Activities also included rendering project development, engineering, design, construction and construction management, operating, fuel management, maintenance and power plant overhaul and other similar kinds of managerial and technical services (including intellectual property other than that created for or on behalf of the public utility company subsidiaries of Southern) to both affiliated Project entities and to non-affiliated developers, operators and owners of independent power projects and foreign and domestic utility systems and industrial concerns. SERI was authorized to render these services utilizing its own work force, independent contractors, and personnel and other resources of associates obtained at cost under existing service agreements. HCAR No. 26212 (December 30, 1994), HCAR No. 26468 (February 2,

seek to renew this authority until the date of the Distribution, which is expected to occur in 2001.

Southern requests that Southern Energy retain the Existing Organizational and Operational Authority through completion of the Distribution which is expected to occur in calendar year 2001.

II. Authority Sought With Respect to the Distribution and Post Distribution Authority for Southern

Southern requests that Southern Energy retain the Existing Organizational and Operational Authority through completion of the Distribution in calendar year 2001 and that Southern be authorized to exercise the Existing Organizational and Operational Authority after the Distribution, through June 30, 2005, through one or more subsidiaries subject to the conditions and reporting requirements set forth in this file. In addition, Applicants request authority to expend $300 million on Development Activities, through June 30, 2005.

III. Formation and Transfer of Holdco

Until the Distribution, Southern will own at least 80 percent of the common stock of Southern Energy. Southern intends to distribute all of its voting securities of Southern Energy to Southern's stockholders within twelve months of the initial offering of Southern Energy common stock.[13]

Pending the Distribution, Southern and Southern Energy intend to reorganize Southern and Southern Energy's activities so that, after the Distribution, Southern will retain certain components of the lines of business it now owns through Southern Energy.[14] To accomplish this, Southern Energy and Southern Company Energy Solutions, Inc. (''Solutions'')[15] will set up a new subsidiary (''Holdco''). Southern Energy and Solutions each plan to contribute energy-management business lines to Holdco.[16] In exchange for its contribution to Holdco, Solutions will receive up to 20% of the voting stock of Holdco. In exchange for at least 80% of the voting stock of Holdco,[17] Southern Energy would contribute the securities of two of its current Intermediate Subsidiaries, SE Finance Capital Corporation (''SE Finance'') and Southern Company Capital Funding, Inc.[18] (''Capital Funding''), to Holdco.[19] Each of these subsidiaries is an Intermediate Subsidiary of Southern Energy authorized under the 1996 Order.

SE Finance includes an Energy-Related Company component and a FUCO subsidiary component. The Energy-Related Company component includes three Energy-Related subsidiaries, Southern Energy Carbontronics, L.L.C. and two held by Southern Energy Clairton, L.L.C.[20] SE Finance also owns the securities of four FUCOs: EPZ Lease, Inc., Dutch Gas Lease, Inc., SEI Gamog Lease, Inc. and Nuon Lease, Inc.

Southern Energy intends to distribute its securities of Holdco to Southern in redemption of a Special Class of Southern Energy Preferred Stock that was issued by Southern Energy to Southern. The Holdco group to be retained by Southern includes Engery-Related activities that the Commission has previously determined to be reasonably incidental and economically necessary to the operation of an integrated electric utility system and FUCO operations predominantly consisting of traditional public utility assets.[21]

Southern anticipates that its wholesale power requirements will be satisfied in the future by a sixth operating company authorized by the FERC. An application to form this company is pending before this Commission.[22] Accordingly, Southern further requests authority, to the extent required, to contribute the voting securities of Holdco to the sixth operating company. Southern's investment in one or more projects through subsidiary companies will be subject to the conditions imposed by rules 53 and 58 of the Act and subject to compliance with the reporting requirements established by the 1996 Order on a Southern consolidated basis.

IV. Master Agreement and Ancillary Agreements

Southern Energy and Southern have entered into a Master Separation and Distribution Agreement (''Master Agreement'')[23] and the associated ancillary agreements (''Ancillary Agreements''), subject to their existing authority and rules, regulations and orders of the Commission.

The Ancillary Agreements appended to the Master Agreement include an Employee Matters Agreement,[24] a Tax Indemnification Agreement,[25] a Transitional Services Agreement, a Confidential Disclosure Agreement,[26] a Technology and Intellectual Property

1996). The 1996 Order extended this authority through December 31, 2000.

[13] The initial offering to the public of Southern Energy common stock closed on October 2, 2000.

[14] These components consist of Energy-Related activities authorized by rule 58 and certain FUCO activities. Applicants assert that most, if not all, of the steps taken prior to the Distribution fall within the authority conferred under the 1996 Order; rules 45, 52, 57, 58, 87; and sections 32(g) and 33(c) of the Act. Applicants note that affiliate transactions are subject to the general supervision of the Commission under Section 12(f) of the Act. To the extent these activities require approval under any sections of the Act Applicants request this approval.

[15] Solutions is a direct subsidiary of Southern conducting Energy-Related operations under rule 58.

[16] Holdco will be an Intermediate Subsidiary as defined and authorized by the 1996 Order and the Existing Organizational and Operational Authority described above.

[17] The final percentages of ownership are to be determined based upon the relative value of the respective contributions to Holdco.

[18] As of March 31, 2000, Southern Energy's investment in Capital Funding was $52.7 million (including retained earnings of $2.3 million). Capital Funding has no subsidiaries.

[19] Applicants note the Holdco group operations do not include high growth businesses and are dominated by traditional public utility assets, including several natural gas distribution systems in the Netherlands that qualify as FUCOs.

[20] Each of these Energy-Related Companies participates in alternative fuel commercialization projects.

[21] Applicants state they could achieve the same structure under the 1996 Order through Southern Energy selling its interests in Exempt Projects, retaining only those interests to be retained by the Holdco group and combining Solutions with the Holdco group, as authorized under the 1996 Order and rule 58. In the Exercise of its business judgment, Southern has determined that greater value can be achieved through a tax-free distribution of Southern Energy to its stockholders than through a sale of portions or all of its business.

[22] S.E.C. File No. 70–9701.

[23] The Master Agreement provided for separation of the Southern and Southern Energy businesses on September 1, 2000, which was shortly before the sale of common stock by Southern Energy to the public (the ''Separation Date''). Section 5.8 of the Master Agreement obligates the parties to implement the Master Agreement and the Ancillary Agreements to the fullest extent permitted by their existing authority and to cooperate to the end of achieving any further necessary authority. Section 5.11 of the Master Agreement provides for the distribution of Holdco. Section 5.12 of the Master Agreement provides that Southern will not cancel any outstanding guarantees, all of which are authorized under Southern's existing authority, and that Southern will extend credit support to Southern Company Energy Marketing through the Distribution, provided that the aggregate amount of credit support arrangements shall not exceed $425 million and may be canceled within six months following the Distribution. The credit support provided for is within the existing performance guarantee authority of Southern pertaining to Southern Energy and its subsidiaries. The 1996 Order authorizes Southern to issue performance guarantees up to $800 million through December 31, 2003.

[24] The Employee Matters Agreement assures that affected employees will be covered by benefit plans, but avoids redundant benefit programs.

[25] Applicants state the Tax Indemnification Agreement will be separately filed under rule 45(c) of the Act.

[26] The Confidential Disclosure Agreement protects certain proprietary information.

Ownership and License Agreement [27] and an Indemnification and Insurance Matters Agreement. The Indemnification and Insurance Matters Agreement provides for a separation of insurance coverage and for mutual indemnification for claims based upon fault.[28]

The Transitional Services Agreement provides for the continuation on an incidental basis of certain services currently provided to Southern Energy, including financial, human resources administration and payroll, accounting and treasury, engineering and technical consulting, information technology, procurement, government relations and legal services, for a term not to exceed two years from September 1, 2000. As a result of the incidental nature of the services, neither Southern nor its subsidiaries will incur unreimbursed costs. After the Separation Date, the subsidiaries of Southern intend to restrict the services rendered to the Southern Energy group to the services enumerated in the Transitional Services Agreement, which are a subset of the currently authorized services.[29]

Southern further requests that the Commission take action, if deemed appropriate and consistent with the Act under section 12(f) of the Act [30] with respect to the Master Agreement and the Ancillary Agreements, taking into account that Southern Energy will in all probability cease to be an associate company of Southern in 2001. Southern proposes that the authority to provide the ancillary services shall expire in accordance with the terms of the Master Agreement on or before September 1, 2002.[31] Southern proposes to provide ancillary services on a wholly incidental basis and only as required to permit an orderly separation of the businesses without extraordinary losses or transition costs.

V. Reporting Requirements

The Applicants propose that a single consolidated quarterly report be filed by Southern and in accordance with rule 24 with respect to all activities of Southern and its subsidiaries authorized in this file. This report would replace the combined report currently being filed pursuant to the 1996 Order.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 00–27010 Filed 10–19–00; 8:45 am]

BILLING CODE 8010–01–M

[27] The Technology and Intellectual Property Ownership and License Agreement documents the intellectual property that Southern and Southern Energy are each authorized to use and does not require any future transfers of intellectual property following the Separation Date.

[28] Applicants assert that a claims indemnification agreement of this nature incidental to a genuine transaction does not involve an upstream or any extension of credit and is not an ''indemnity'' within the meaning of section 12 of the Act. See Mississippi Valley Generating Company, HCAR No. 12794 (February 9, 1955) and The Southern Company, HCAR No. 27134 (February 9, 2000) (both construing and applying Section 12(a) of the Act in accordance with Section 1(c) of the Act and the legislative history showing an intent to protect public utility subsidiaries).

[29] Southern's subsidiaries are authorized under rule 87 of the Act to provide goods and services at cost to Southern Energy and its subsidiaries in accordance with the limitations imposed by rule 87. Southern Company Services, Inc. (''Southern Services'') is further authorized under the 1996 Order and HCAR No. 26212 (December 30, 1994) to provide services at cost to SERI. Southern Energy represents less than 3% of the total service billings of Southern Services. Southern anticipates a substantial reduction in the services rendered to Southern Energy following the Separation Date and a further reduction following the Distribution.

[30] Section 12(f) of the Act confers plenary jurisdiction upon the Commission over affiliate transactions.

[31] Following the Distribution, Southern will principally provide engineering and technical services to Southern Energy through Solutions or any other rule 58 subsidiary authorized to provide energy-related engineering and technical services to third parties. The costs associated with Southern Services providing support services (other than energy-related engineering and technical services) are estimated to be less than 1% of the annual billings of Southern Service.

DEPARTMENT OF STATE

[Public Notice 3452]

Office of Overseas Schools; Information Collection Request

AGENCY: Department of State.

ACTION: 30-Day Notice of Information Collection; Overseas Schools—Grant Status Reports.

SUMMARY: The Department of State has submitted the following information collection request to the Office of Management and Budget (OMB) for approval in accordance with the Paperwork Reduction Act of 1995. Comments should be submitted to OMB within 30 days of the publication of this notice.

The following summarizes the information collection proposal submitted to OMB:

Type of Request: Renewal.

Originating Office: A/OPR/OS.

Title of Information Collection: Overseas Schools—Grant Status Reports.

Frequency: Annual.

Form Number: OMB No. 1405–0033.

Respondents: Recipients of grants.

Estimated Number of Respondents: 190.

Average Hours Per Response: .25.

Total Estimated Burden: 47.5 hours.

Public comments are being solicited to permit the agency to:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility.
- Evaluate the accuracy of the agency's estimate of the burden of the collection, including the validity of the methodology and assumptions used.
- Enhance the quality, utility, and clarity of the information to be collected.
- Minimize the reporting burden on those who are to respond, including through the use of automated collection techniques or other forms of technology.

FOR FURTHER INFORMATION CONTACT: Copies of the proposed information collection and supporting documents may be obtained from Office of Overseas Schools, U.S. Department of State, Washington, DC 20520 (202) 261–8200. Public comments and questions should be directed to the State Department Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20530, (202) 395–5871.

Dated: October 16, 2000.

Robert B. Dickson,

Executive Director, Bureau of Administration, Department of State.

[FR Doc. 00–27073 Filed 10–19–00; 8:45 am]

BILLING CODE 4710–24–U

DEPARTMENT OF STATE

Bureau of Oceans, Environment and Science

[Public Notice No. 3451]

Public Meeting on An International Agreement on Prior Informed Consent for Certain Hazardous Chemicals and Pesticides

SUMMARY: This public meeting will provide an overview of ongoing efforts to implement a binding agreement on the application of a prior informed consent (PIC) procedure for certain hazardous chemicals and pesticides. A total of 73 countries have signed the binding PIC agreement, with 11 countries completing ratification. The purpose of the public meeting is to discuss preparations for the seventh session of the PIC intergovernmental negotiating committee (INC–7) which will take place from October 30 to November 3, 2000. The INC–7 meeting will address a number of timely issues

related to the PIC agreement: status and implementation issues related to the interim PIC procedure, applicability to pesticides containing contaminants, activities of the interim chemical review committee, and preparation for the first conference of the parties. The public meeting will take place from 10:00 am to 12:00 pm on October 25 in Room 3519, U.S. Department of State, 2201 C Street Northwest, Washington, D.C. Attendees should use the entrance at C Street, and should provide Eunice Mourning (202–647–9266) with their date of birth and social security number by noon on October 24. Attendees should bring picture identification to the meeting.

FOR FURTHER INFORMATION CONTACT: Please contact Dr. Marie Ricciardone, U.S. Department of State, OES/ENV, Room 4325, 2201 C Street NW, Washington D.C. 20520. Phone 202–736–4660, fax 202–647–5947.

SUPPLEMENTARY INFORMATION: The United States, through an interagency working group chaired by the State Department, has been involved in preparations for implementation of the Rotterdam Convention on the Prior Informed Consent (PIC) Procedure for Certain Hazardous Chemicals and Pesticides in International Trade. The text of the PIC Convention was adopted by the Conference of Plenipotentiaries in September 1998. The Convention will make binding the current interim voluntary scheme contained in the United Nations Food and Agriculture Organization (FAO) International Code of Conduct on the Distribution and Use of Pesticides and the United Nations Environment Program (UNEP) London Guidelines for the Exchange of Information on Chemicals in International Trade. The PIC procedure was developed in recognition of the fact that many countries in the developing world have inadequate capacity to generate information necessary to make decisions regarding how to effectively manage risks of hazardous chemicals, and in certain cases to ensure adequate compliance with risk management decisions. The procedure assists countries in learning more about the characteristics of certain hazardous chemicals that may be shipped to them, initiates a decision-making process on the future import of these chemicals, and facilitates the dissemination of this decision to other countries.

Chemicals eligible for the PIC procedure include those which have been banned or severely restricted by participating countries, as well as certain acutely hazardous pesticides. Under the procedure, countries notify the PIC secretariat of their decision on importation for each of the PIC chemicals. In their decision, countries indicate whether they will permit use and importation, prohibit use and importation, or permit importation only under specified conditions. Importing countries are expected to ensure that their decisions are applied to all sources of import and to domestic production for domestic use; exporting countries are expected to ensure that exports do not occur contrary to the decisions of importing countries. So far, 27 chemicals have been included in the procedure, and it is likely that more will be covered in the future. Additional information on the voluntary procedure, PIC text, PIC chemicals, and the agenda for INC–7 is located on the internet on the PIC Home Page (http://www.pic.int).

The Department of State is issuing this notice to help ensure that potentially affected parties are aware of and knowledgeable about the parameters of these negotiations. In the future, we will be contacting interested organizations about planned briefings by mail or fax. Those organizations which cannot attend the meeting, but wish to remain informed, should provide Dr. Marie Ricciardone of the Department of State with their address, telephone and fax numbers.

Dated: October 17, 2000.

Dan Fantozzi,

Director, Office of Environmental Policy.

[FR Doc. 00–27072 Filed 10–19–00; 8:45 am]

BILLING CODE 4710–09–U

DEPARTMENT OF STATE

[Public Notice #3345]

Advisory Committee on Labor Diplomacy; Notice of Meeting

The Advisory Committee on Labor Diplomacy (ACLD) will hold a meeting from 9:30 a.m. to 4:00 p.m. on November 8, 2000, in room 1107, U.S. Department of State, 2201 C Street, NW, Washington, DC 20520. Committee Chairman Thomas Donahue, former President of the AFL-CIO, will chair the meeting.

The ACLD is comprised of prominent persons with expertise in the area of international labor policy and labor diplomacy. The ACLD advises the Secretary of State and the President on the resources and policies necessary to implement labor diplomacy programs efficiently, effectively and in a manner that ensures U.S. leadership before the international community in promoting the objectives and ideals of U.S. labor policies in the 21st century. The ACLD will make recommendations on how to strengthen the Department of State's ability to respond to the many challenges facing the United States and the federal government in international labor matters. These challenges include the protection of worker rights, the elimination of exploitative child labor, and the prevention of abusive working conditions.

The agenda for the November 8 meeting includes discussion of the interagency process on international labor policy formulation.

Members of the public are welcome to attend the meeting as seating capacity allows. As access to the Department of State is controlled, persons wishing to attend the meeting must be pre-cleared by calling or faxing the following information, by close of business November 6, to Eric Barboriak at (202) 647–4327 or fax (202) 647–0431 or email barboriakem@state.gov: name; company or organization affiliation (if any); date of birth; and social security number. Pre-cleared persons should use the 23rd Street entrance to the State Department and have a driver's license with photo, a passport, a U.S. Government ID or other valid photo identification.

Members of the public may, if they wish, submit a brief statement to the Committee in writing. Those wishing further information should contact Mr. Barboriak at the phone and fax numbers provided above.

Dated: October 13, 2000.

Michael E. Parmly,

Acting Assistant Secretary, Bureau of Democracy, Human Rights and Labor, Department of State.

[FR Doc. 00–27071 Filed 10–19–00; 8:45 am]

BILLING CODE 4710–18–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for renewal and comment. The ICR describes the nature of the information collection and its expected cost and burden. The **Federal Register** Notice

with a 60-day comment period soliciting comments on the following collection of information was published on May 15, 2000 [FR 65, 31049]. No comments were received.

DATES: Comments must be submitted on or before November 20, 2000.

FOR FURTHER INFORMATION CONTACT: Delores King, Air Carrier Fitness Division, X–56, Office of Aviation Analysis; Office of the Secretary; US Department of Transportation, 400 7th Street, SW., Washington, DC 20590–0002. Telephone (202) 366–2343.

SUPPLEMENTARY INFORMATION:

Office of the Secretary (OST)

Title: Procedures and Evidence Rules for Air Carrier Authority Applications:

14 CFR part 201—Air Carrier Authority under Subtitle VII of title 49 of the United States Code—(Amended);

14 CFR part 204—Data to Support Fitness Determinations;

14 CFR part 291—Cargo Operations in Interstate Air Transportation.

OMB Control Number: 2106–0023.

Affected Public: Persons seeking initial or continuing authority to engage in air transportation must provide information to the Department concerning their ownership, citizenship, financial condition and compliance history. This specific information to be filed is set forth in 14 CFR parts 201 and 204.

Annual Estimated Burden: 4900 hours*

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; (b) the accuracy of the Department's estimate of the burden of the proposed information collection; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC on October 16, 2000.

Michael Robinson,

Information Resource Management, United States Department of Transportation.

[FR Doc. 00–26956 Filed 10–19–00; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[USCG–2000–8103]

Navigation Safety Advisory Committee

AGENCY: Coast Guard, DOT.

ACTION: Notice of meeting.

SUMMARY: The Navigation Safety Advisory Council (NAVSAC) will meet to discuss various issues relating to the safety of navigation. The meeting is open to the public.

DATES: NAVSAC will meet on Monday, November 13, 2000, from 8 a.m. to 5 p.m., Tuesday, November 14, 2000, from 2:30 to 6 p.m., and on Wednesday, November 15, 2000, from 8 a.m. to 3 p.m. The meeting may close early if all business is finished. Written material should reach the Coast Guard on or before November 3, 2000. Requests to make oral presentations should reach the Coast Guard on or before November 8, 2000. Requests to have a copy of your material distributed to each member of the Council should reach the Coast Guard on or before November 3, 2000.

ADDRESSES: NAVSAC will meet at The Admiral Fell Inn; 888 South Broadway, Baltimore, MD 21231. Send written material and requests to make oral presentations to Ms. Margie G. Hegy, Commandant (G–MW), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Ms. Margie G. Hegy, Executive Director of NAVSAC, telephone 202–267–0415, fax 202–267–4700.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agenda of Meeting

The meeting topics include the following:

(1) High speed craft.
(2) Aids to navigation.
(3) Crew alertness campaign.
(4) Electronic navigational aids.

You may request a copy of the agenda from Ms. Hegy at the number listed in **FOR FURTHER INFORMATION CONTACT.**

Procedural

The meeting is open to the public. Please note that the meeting may close early if all business is finished. At the Chair's discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation, please notify the Executive Director no later than November 8, 2000. Written material for distribution at a meeting should reach the Coast Guard no later than November 8, 2000. If you would like a copy of your material distributed to each member of the Council in advance of the meeting, please submit 25 copies to the Executive Director no later than November 3, 2000.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: October 12, 2000.

Jeffrey P. High,

Acting Assistant Commandant for Marine Safety and Environmental Protection.

[FR Doc. 00–26949 Filed 10–19–00; 8:45 am]

BILLING CODE 4910–15–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for extension of currently approved collection. The ICR describes the nature of the information collection and the expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on August 4, 2000, [FR 65, pages 48042–48043].

DATES: Comments must be submitted on or before November 20, 2000. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Judy Street on (202) 267–9895.

SUPPLEMENTARY INFORMATION:

Federal Aviation Administration (FAA)

Title: Volcanic Activity User Needs Analysis Questionnaire.

Type of Request: Request for approval of a new collection of information.

OMB Control Number: 2120–New.

Form(s): N/A.

Affected Public: Approximately 100 members of the aviation business

community and state and local government aviation community.

Abstract: Volcanic activity, specifically volcanic ash, constitutes a severe hazard to aviation. To determine the need for specific product and service improvements, the FAA requires input from airlines, airports, and pilots to understand their operational needs. The results of the survey will form the basis for investments leading to improved or new products that alert users of the national Airspace system of the volcanic ash threat.

Estimated Annual Burden Hours: 100 hours one time.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW, Washington, DC 20503, Attention FAA Desk Officer.

Comments are invited on whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collections; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, in including the use of automated collection techniques of other forms of information technology.

Issued in Washington, DC, on October 13, 2000.

Judith D. Street,

Acting Manager, Standards and Information Division, APF–100.

[FR Doc. 00–26954 Filed 10–19–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2000–60]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption Part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR, dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before November 13, 2000.

ADDRESSES: Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000–XXXX at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to http://dms.dot.gov. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9:00 a.m. and 5:00 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone 1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW, Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91 of part 11.

Issued in Washington, DC, on October 17, 2000.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2000–8070.

Petitioner: The Boeing Company.

Section of 14 CFR Affected: 14 CFR 25.853.

Description of Relief Sought: To permit the exemption of software media holders from the flammability test data requirements on Boeing Model 737, 747, 757, 767, and 777 airplanes.

Docket No.: FAA–2000–8070.

Petitioner: The Boeing Company.

Regulations Affected: 14 CFR 25.853.

Description of Petition: To exempt software media holders from the flammability test data requirements on Boeing Model 737, 747, 757, 767, 777 airplanes.

[FR Doc. 00–27060 Filed 10–19–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–2000–61]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption Part 11 of Title 14, Code of Federal Regulations (14 CFR), this notice contains a summary of certain petitions seeking relief from specified requirements of 14 CFR, dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments or petitions received must identify the petition docket number involved and must be received on or before November 13, 2000.

ADDRESSES: Send comments on any petition to the Docket Management System, U.S. Department of Transportation, Room Plaza 401, 400 Seventh Street, SW., Washington, DC 20590–0001. You must identify the docket number FAA–2000–XXXX at the beginning of your comments. If you wish to receive confirmation that FAA received your comments, include a self-addressed, stamped postcard.

You may also submit comments through the Internet to http://dms.dot.gov. You may review the public docket containing the petition, any comments received, and any final disposition in person in the Dockets Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Dockets Office (telephone

1–800–647–5527) is on the plaza level of the NASSIF Building at the Department of Transportation at the above address. Also, you may review public dockets on the Internet at http://dms.dot.gov.

FOR FURTHER INFORMATION CONTACT: Forest Rawls (202) 267–8033, or Vanessa Wilkins (202) 267–8029, Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to 14 CFR 11.85 and 11.91 of Part 11.

Issued in Washington, DC, on October 17, 2000

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: FAA–2000–8062.
Petitioner: The Boeing Company.
Section of 14 CFR Affected: 14 CFR 25.961(a)(5).
Description of Relief Sought: To permit a maximum temperature limitation of 80 °F for JP–4 and Jet B fuels for use on the Boeing Model 747–400/–400F equipped with Rolls Royce RB211–524G–T/H–T engines.

Docket No.: FAA–2000–8062.
Petitioner: The Boeing Company.
Regulations Affected: 14 CFR 25.961(a)(5).
Description of Petition: To exempt the Boeing Company from the requirements of 14 CFR 25.961(a)(5) to allow a maximum temperature limitation of 80 °F for JP–4 and Jet B fuels for use on the Boeing Model 747–400/–400F equipped with Rolls Royce RB211–524G–T/H–T engines.

[FR Doc. 00–27061 Filed 10–19–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Nashville International Airport, Nashville, TN

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use revenue from a PFC at Nashville International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before November 20, 2000.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Memphis Airports District Office, 3385 Airways Boulevard, Suite 302, Memphis, TN 38116–3841.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to General William G. Moore, Jr., President of the Metropolitan Nashville Airport Authority at the following address: One Terminal Drive, Suite 501, Nashville, TN 37214.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Metropolitan Nashville Airport Authority under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Cynthia K. Wills, Program Manager, Memphis Airports District Office, 3385 Airways Boulevard, Suite 302, Memphis, TN 38116–3841, (901) 544–3495 extension 16. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Nashville International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On October 13, 2000, the FAA determined that the application to impose and use the revenue from a PFC submitted by Metropolitan Nashville Airport Authority was substantially complete within the requirements of § 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 31, 2001.

The following is a brief overview of the application.

PFC Application No.: 01–08–C–00–BNA.
Level of the proposed PFC: $3.00.
Proposed charge effective date: April 1, 2002.
Proposed charge expiration date: July 1, 2002.
Total estimated net PFC revenue: $3,727,000.
Brief description of proposed project(s): Design Fees Terminal Access Roadways, Baggage Information Display System, Airfield Pavement Rehabilitation, Terminal Apron Reconstruction, Air Cargo Ramp Expansion, Radio Communication System, Airport Master Plan, Update Noise Exposure Map.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT**.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Metropolitan Nashville Airport Authority.

Issued in Memphis, Tennessee on October 13, 2000.

LaVerne F. Reid,

Manager, Memphis Airports District Office, Southern Region.

[FR Doc. 00–27059 Filed 10–19–00; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Agency Information Collection Activities: Submission for OMB Review

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) for review and comment. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on May 5, 2000 (65 FR 26269). We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by November 20, 2000.

ADDRESSES: You may send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected

information; and (4) ways that the burdens could be minimized, including the use of electronic technology, without reducing the quality of the collected information.

FOR FURTHER INFORMATION CONTACT: Carmen Sevier, (202) 366–1595, Civil Rights Service Business Unit, Federal Highway Administration, 400 7th Street, SW., Washington, DC 20590–0001. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 2125–0019 (Expiration Date: December 31, 2000).

Title: Federal-Aid Highway Construction Equal Employment Opportunity.

Abstract: Under the provisions of Title 23 U.S.C. Part 140(a), the Federal Highway Administration (FHWA) is required to ensure equal opportunity in contractors' employment practices on federal-aid highway projects. In order to implement this provision of the law, FHWA regulation, 23 CFR 230, Subpart A, requires that contractors submit to State Departments of Transportation (State DOTs) an annual report providing employment workforce data, which includes the number of minorities, women, and non-minority group employees in each construction craft. The information is reported on Form PR–1391, Federal-Aid Highway Construction Contractors Annual EEO Report. The regulation also requires State DOTs to submit an annual report to FHWA summarizing PR–1391 data. This summary is provided on Form PR–1392, Federal-aid Highway Construction, Summary of Employment Data.

Affected Public: Approximately 4,500 Federal-aid contractors and 52 State Departments of Transportation.

Estimated Total Annual Burden Hours: 3,916. FHWA estimates that approximately 4,500 federal-aid contractors are required to complete and submit Form PR–1391 for approximately 7,000 projects and that each report takes approximately 30 minutes. In addition, FHWA estimates that it takes each State DOT approximately 8 hours to complete and submit Form PR–1392.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: October 16, 2000.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. 00–26996 Filed 10–19–00; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. MC–F–20974]

Stagecoach Holdings PLC and Coach USA, Inc., et al.—Control—Royal West Tours & Cruises, Inc.

AGENCY: Surface Transportation Board, Transportation.

ACTION: Notice tentatively approving finance transaction.

SUMMARY: Stagecoach Holdings PLC (Stagecoach) and its subsidiary, Coach USA, Inc. (Coach), noncarriers, and various subsidiaries of each (collectively, applicants), filed an application under 49 U.S.C. 14303 to acquire control of Royal West Tours & Cruises, Inc. (Royal), a motor passenger carrier. Persons wishing to oppose this application must follow the rules under 49 CFR part 1182.5 and 1182.8. The Board has tentatively approved the transaction, and, if no opposing comments are timely filed, this notice will be the final Board action.

DATES: Comments must be filed by December 4, 2000. Applicants may file a reply by December 19, 2000. If no comments are filed by December 4, 2000, this notice is effective on that date.

ADDRESSES: Send an original and 10 copies of any comments referring to STB Docket No. MC–F–20974 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, send one copy of any comments to applicants' representatives: Betty Jo Christian and David H. Coburn, Steptoe & Johnson LLP, 1330 Connecticut Avenue, N.W., Washington, DC 20036–1795.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar (202) 565–1600. [TDD for the hearing impaired: 1–800–877–8339.]

SUPPLEMENTARY INFORMATION:

Stagecoach is a public limited corporation organized under the laws of Scotland. With operations in several countries, Stagecoach is one of the world's largest providers of passenger transportation services. Stagecoach had annual revenues of $3.29 billion for the fiscal year ending April 30, 2000. Coach is a Delaware corporation that currently controls over 80 motor passenger carriers.

Stagecoach and its subsidiaries currently control Coach,[1] its noncarrier regional management subsidiaries, and the motor passenger carriers jointly controlled by Coach and the management subsidiaries.[2] In previous Board decisions, Coach management subsidiaries, including Coach USA West, Inc., have obtained authority to control motor passenger carriers jointly with Coach.[3]

Applicants state that, on July 25, 2000, Coach purchased all of the stock of Royal, a motor passenger carrier holding federally authorized operating authority. Simultaneously with that acquisition, Coach placed the stock of Royal into an independent voting trust. The control transaction that is the subject of this application will not involve any further transfer of the federal operating authority held by Royal and will not entail any change in its operations.[4] Royal will also be jointly controlled by Coach USA West, Inc.

Applicants have submitted information, as required by 49 CFR 1182.2(a)(7), to demonstrate that the proposed acquisition of control is consistent with the public interest under 49 U.S.C. 14303(b). Applicants state that the proposed transaction will not reduce competitive options, adversely impact fixed charges, or adversely impact the interests of the employees of Royal. Applicants assert that granting the application will allow Royal to take advantage of economies of scale and substantial benefits offered by applicants, including interest cost savings and reduced operating costs. In addition, applicants have submitted all of the other statements and certifications required by 49 CFR 1182.2. Additional information, including a copy of the application, may be obtained from the applicants' representatives.

Under 49 U.S.C. 14303(b), we must approve and authorize a transaction we

[1] Stagecoach controls Coach through various subsidiaries, namely, SUS 1 Limited, SUS 2 Limited, Stagecoach Nevada, and SCH US Holdings Corp.

[2] *See Stagecoach Holdings PLC—Control—Coach USA, Inc., et al.,* STB Docket No. MC–F–20948 (STB served July 22, 1999).

[3] *See Coach USA, Inc. and Coach USA North Central, Inc.—Control—Nine Motor Carriers of Passengers,* STB Docket No. MC–F–20931, *et al.* (STB served July 14, 1999).

[4] Royal is a Florida corporation, based in San Diego, CA. It holds federally-issued operating authority in Docket No. MC–239135, authorizing it to provide charter and special services between points in the United States, as well as regular route service between specified points in California and other southwestern states. Royal also holds intrastate operating authority issued by the California Public Service Commission. Royal operates a fleet of 29 buses and one van and employs approximately 56 employees. Its operations are composed primarily of charter services provided in California and between California and other states. For the 12-month period ended June 30, 2000, Royal earned operating revenues of approximately $3.6 million.

find consistent with the public interest, taking into consideration at least: (1) The effect of the transaction on the adequacy of transportation to the public; (2) the total fixed charges that result; and (3) the interest of affected carrier employees.

On the basis of the application, we find that the proposed acquisition of control is consistent with the public interest and should be authorized. If any opposing comments are timely filed, this finding will be deemed vacated and, unless a final decision can be made on the record as developed, a procedural schedule will be adopted to reconsider the application. *See* 49 CFR 1182.6(c). If no opposing comments are filed by the expiration of the comment period, this decision will take effect automatically and will be the final Board action.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

This decision will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered:

1. The proposed acquisition of control is approved and authorized, subject to the filing of opposing comments.

2. If timely opposing comments are filed, the findings made in this decision will be deemed as having been vacated.

3. This decision will be effective on December 4, 2000, unless timely opposing comments are filed.

4. A copy of this notice will be served on: (1) The U.S. Department of Transportation, Federal Motor Carrier Safety Administration—MC–RI, 400 Virginia Avenue, S.W., Suite 600, Washington, DC 20024; (2) the U.S. Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530; and (3) the U.S. Department of Transportation, Office of the General Counsel, 400 7th Street, S.W., Washington, DC 20590.

Decided: October 13, 2000.

By the Board, Chairman Morgan, Vice Chairman Burkes, and Commissioner Clyburn.

Vernon A. Williams,

Secretary.

[FR Doc. 00–27070 Filed 10–19–00; 8:45 am]

BILLING CODE 4195–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–414 (Sub-No. 3X)]

Iowa Interstate Railroad, Ltd.—Abandonment Exemption—in Marion and Jasper Counties, IA

Iowa Interstate Railroad, Ltd. (IAIS) has filed a notice of exemption under 49 CFR Part 1152 Subpart F—*Exempt Abandonments and Discontinuances* to abandon a 13.36-mile line of railroad between milepost 123.50 near Otley and milepost 136.86 near Prairie City, in Marion and Jasper Counties, IA. The line traverses United States Postal Service Zip Codes 50170, 50214, 50219 and 50228.

IAIS has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed. Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 21, 2000, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 30, 2000. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by November 9, 2000, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: T. Scott Bannister, 1300 Des Moines Building, 405—Sixth Avenue, Des Moines, IA 50309.

If the verified notice contains false or misleading information, the exemption is void *ab initio*.

IAIS has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by October 25, 2000. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), IAIS shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by IAIS's filing of a notice of consummation by October 20, 2001, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: October 13, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–27069 Filed 10–19–00; 8:45 am]

BILLING CODE 4915–00–P

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[2] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $1000. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–303 (Sub–No. 22X)]

Wisconsin Central Ltd.—Abandonment Exemption—in Calumet and Brown Counties, WI

On October 2, 2000, Wisconsin Central Ltd. (WCL) filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903–05 [1] to abandon a line of railroad known as the Hilbert-Greenleaf Line, extending between milepost 170.4 at Hilbert and milepost 183 at Greenleaf, in Calumet and Brown Counties, WI, a distance of 12.6 miles. The line traverses U.S. Postal Service Zip Codes 54129, 54123 and 54126, and includes the station at Greenleaf (milepost 183).

The line does not contain federally granted rights-of-way. Any documentation in WC's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuing this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by January 19, 2001.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $1,000 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than November 9, 2000. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–303 (Sub-No. 22X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001; and (2) Michael J. Barron, Jr., P.O. Box 5062, Rosemont, IL 60017–5062. Replies to the WCL petition are due on or before November 9, 2000.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at 1–800–877–8339.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Board decisions and notices are available on our website at ''WWW.STB.DOT.GOV.''

Decided: October 12, 2000.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 00–26917 Filed 10–19–00; 8:45 am]

BILLING CODE 4915–00–P

[1] WCL's petition states that it seeks exemption from the provisions of 49 U.S.C. 10903–05, thus evidently including exemption from the offer of financial assistance (OFA) requirements of 49 U.S.C. 10904 and the public use requirements of 49 U.S.C. 10905. WCL has not submitted evidence to establish that the proposed exemptions from the sections 10904 and 10905 meet the criteria of 49 U.S.C. 10502. Therefore, its request as to those two provisions will not be considered.

DEPARTMENT OF TRANSPORTATION

Bureau of Transportation Statistics

Advisory Council on Transportation Statistics

AGENCY: Bureau of Transportation Statistics, DOT.

ACTION: Notice of meeting.

SUMMARY: Pursuant to section 10(A)(2) of the Federal Advisory Committee Act (Public Law 72–363; 5 U.S.C. App. 2) notice is hereby given of a meeting of the Bureau of Transportation Statistics (BTS) Advisory Council on Transportation Statistics (ACTS) to be held Tuesday, October 31, 2000, 10 a.m. to 4 p.m. The meeting will take place at the U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC, in conference room 10234–10238 of the Nassif Building.

The Advisory Council, called for under section 6007 of Public Law 102–240, Intermodal Surface Transportation Efficiency Act of 1991, December 18, 1991, and chartered on June 19, 1995, was created to advise the Director of BTS on transportation statistics and analyses, including whether or not the statistics and analysis disseminated by the Bureau are of high quality and are based upon the best available objective information.

The agenda for this meeting will include, Director's programs update, Advisory Council report to the Director, data gaps, identification of substantive issues, review of plans and schedule, other items of interest, discussion and agreement of date(s) for subsequent meetings, and comments from the floor.

Since access to the DOT building is controlled, all persons who plan to attend the meeting must notify Ms. Lillian ''Pidge'' Chapman, Council Liaison, on (202) 366–1270 prior to October 27, 2000. Attendance is open to the interested public but limited to space available. With the approval of the Chair, members of the public may present oral statements at the meeting. Noncommittee members wishing to present oral statements, obtain information, or who plan to access the building to attend the meeting should also contact Ms. Chapman.

Members of the public may present a written statement to the Council at any time.

Persons with a disability requiring special services, such as an interpreter for the hearing impaired, should contact Ms. Chapman (202) 366–1270 at least seven days prior to the meeting.

Issued in Washington, DC, on October 16, 2000.

Ashish Sen,

Director.

[FR Doc. 00–26955 Filed 10–19–00; 8:45 am]

BILLING CODE 4910–01–P

Corrections

Federal Register

Vol. 65, No. 204

Friday, October 20, 2000

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 600 and 660

[Docket No. 9912233477–9347; I.D. 092800C]

Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; Trip Limit Adjustments

Correction

In rule document 00–25631 beginning on page 59752, in the issue of Friday, October 6, 2000, make the following correction:

On page 59757, above and below the heading, ''*C. Trip Limits in the Open Access Fishery*'' add five (5) asterisks.

[FR Doc. C0–25631 Filed 10–19–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Compliance Filing

Correction

In notice document 00–26057 beginning on page 60415 in the issue of Wednesday, October 11, 2000, make the following correction:

On page 60415, in the third column, in the first paragraph, in the first line ''RM9–1–014, RP00–23–'' should read ''RM96–1–014, RP01–23–''

[FR Doc. C0–26057 Filed 10–19–00; 8:45 am]

BILLING CODE 1505–01–D

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Parts 204 and 245

[INS No. 2048-00]

RIN 1115-AF75

National Interest Waivers for Second Preference Employment-Based Immigrant Physicians Serving in Medically Underserved Areas or at Department of Veterans Affairs Facilities

Correction

In the issue of Tuesday, September 26, 2000, on page 57861, in the second column, in the correction of rule document 00-22832, entry 4. should read ''4. On the same page, in the second column, §245.18(18)(h)(1), in the fourth line after ''period'', ''of'' should read ''or''.''

[FR Doc. C0–22832 Filed 10–19–00; 8:45 am]

BILLING CODE 1505–01–D

Federal Register

Friday,
October 20, 2000

Part II

Department of the Treasury

Office of the Comptroller of the Currency

Office of Thrift Supervision

Federal Reserve System

Federal Deposit Insurance Corporation

12 CFR Parts 41, 222, 334 and 571
Fair Credit Reporting Regulations; Proposed Rule

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

12 CFR Part 41

[Docket No. 00–20]

RIN 1557–AB78

FEDERAL RESERVE SYSTEM

12 CFR Part 222

[Regulation V; Docket No. R–1082]

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 334

RIN 3064–AC35

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

12 CFR Part 571

[Docket No. 2000–81]

RIN 1550–AB33

Fair Credit Reporting Regulations

AGENCIES: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); and Office of Thrift Supervision, Treasury (OTS).

ACTION: Joint notice of proposed rulemaking.

SUMMARY: The OCC, Board, FDIC, and OTS (Agencies) are publishing for comment proposed regulations implementing the provisions of the Fair Credit Reporting Act (FCRA) that permit institutions to communicate consumer information to their affiliates (affiliate information sharing) without incurring the obligations of consumer reporting agencies. These provisions authorize institutions to communicate among their affiliates: Information as to transactions or experiences between the consumer and the person making the communication (transaction or experience information); and ''other'' information (that is, information covered by the FCRA but not transaction or experience information), provided that the institution has given notice to the consumer that the other information may be communicated, the institution has provided the consumer an opportunity to ''opt out'' (*i.e.*, to direct that the information not be communicated), and the consumer has not opted out. The proposed regulations explain how to comply with the affiliate information sharing provisions, addressing such matters as the content and delivery of the notice to consumers that ''other'' information may be communicated (opt out notice). The proposed regulations also implement certain related provisions. The Agencies have attempted to conform these proposed regulations to the final regulations implementing the privacy provisions of the Gramm-Leach-Bliley Act whenever feasible.

DATES: Comments must be received by December 4, 2000.

ADDRESSES: Comments should be directed to:

OCC: Communications Division, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, D.C. 20219, Attention: Docket No. 00–20; FAX number (202) 874–5274 or Internet address: regs.comments@occ.treas.gov. Comments may be inspected and photocopied at the OCC's Public Reference Room, 250 E Street, SW., Washington D.C. between 9:00 a.m. and 5:00 p.m. on business days. You can make an appointment to inspect the comments by calling (202) 874–5043.

Board: Comments, which should refer to Docket No. R–1082, may be mailed to Ms. Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., Washington, D.C. 20551 or mailed electronically to regs.comments@federalreserve.gov. Comments addressed to Ms. Johnson also may be delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m. and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, NW. Comments may be inspected in Room MP–500 between 9:00 a.m. and 5:00 p.m., pursuant to § 261.12, except as provided in § 261.14, of the Board's Rules Regarding the Availability of Information, 12 CFR 261.12 and 261.14.

FDIC: Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments may be hand delivered to the guard station at the rear of the 17th Street building (located on F Street) on business days between 7 a.m. and 5 p.m. (FAX number (202) 898–3838). Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, NW., Washington, DC 20429, between 9:00 a.m. and 4:30 p.m. on business days.

Comments may be submitted to the FDIC electronically over the Internet at www.fdic.gov. Further information concerning this option may be found below at ''FDIC's Electronic Public Comment Site.'' Comments also may be mailed electronically to comments@fdic.gov.

OTS: Mail: Send comments to Manager, Dissemination Branch, Information Management and Services Division, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention Docket No. 2000–81.

Delivery: Hand deliver comments to the Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9:00 a.m. to 4:00 p.m. on business days, Attention Docket No. 2000–81.

Facsimiles: Send facsimile transmissions to FAX Number (202) 906–7755, Attention Docket No. 2000–81; or (202) 906–6956 (if comments are over 25 pages).

E-Mail: Send e-mails to ''public.info@ots.treas.gov'', Attention Docket No. 2000–81, and include your name and telephone number.

Public Inspection: Interested persons may inspect comments at the Public Reference Room, 1700 G St. N.W., from 10:00 a.m. until 4:00 p.m. on Tuesdays and Thursdays or obtain comments and/or an index of comments by facsimile by telephoning the Public Reference Room at (202) 906–5900 from 9:00 a.m. until 5:00 on business days. Comments and the related index will also be posted on the OTS Internet Site at ''www.ots.treas.gov''.

FOR FURTHER INFORMATION CONTACT:

OCC: Amy Friend, Assistant Chief Counsel, (202) 874–5200; Michael Bylsma, Director, Community and Consumer Law, (202) 874–5750; Stephen Van Meter, Senior Attorney, Community and Consumer Law, (202) 874–5750; Carol Workman, Compliance Specialist, Community and Consumer Policy, (202) 874–4858; Deborah Katz, Senior Attorney, Legislative and Regulatory Activities Division, (202) 874–5090; or Jeffery Abrahamson, Attorney, Enforcement and Compliance, (202) 874–4800, Office of the Comptroller of the Currency, 250 E Street, SW., Washington, DC 20219.

Board: James H. Mann, Senior Attorney, (202) 452–2412; or David A. Stein, Attorney, (202) 452–3667, Division of Consumer and Community Affairs. For the hearing impaired *only,* contact Janice Simms, Telecommunications Device for the Deaf (TDD) (202) 872–4984, Board of Governors of the Federal Reserve

System, 20th and C Streets, NW., Washington, DC 20551.

FDIC: James K. Baebel, Assistant Director, Compliance Policy, Division of Compliance and Consumer Affairs, (202) 942–3086; Deanna Caldwell, Community Affairs Officer, Division of Compliance and Consumer Affairs, (202) 736–0141; Nancy Schucker Recchia, Counsel, Regulations and Legislation Section, (202) 898–8885; A. Ann Johnson, Counsel, Regulations and Legislation Section, (202) 898–3573; and David Lafleur, Senior Compliance Examiner, (415) 395–5261, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

OTS: Christine Harrington, Counsel (Banking and Finance), (202) 906–7957; Paul Robin, Assistant Chief Counsel, (202) 906–6648; or Elizabeth Baltierra, Program Analyst, Compliance Policy (202) 906–6540, Office of Thrift Supervision, 1700 G Street, NW., Washington DC 20552.

SUPPLEMENTARY INFORMATION:

I. Background

The FCRA

The FCRA, enacted in 1970, sets standards for the collection, communication, and use of information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living. 15 U.S.C. 1681–1681u. In 1996, the Consumer Credit Reporting Reform Act amended the FCRA extensively (1996 Amendments). Pub. L. 104–208, 110 Stat. 3009.

For many years, to avoid the obligations of consumer reporting agencies imposed by the FCRA, many institutions avoided making any communications to affiliated companies of consumer information that could constitute consumer reports.[1] The 1996 Amendments, however, excluded specified types of information sharing with affiliates from the definition of ''consumer report,'' assuring institutions that making these communications would not expose them to the obligations of consumer reporting agencies. In particular, the 1996 Amendments excluded from the definition of ''consumer report'' the sharing of ''other'' information among affiliates, so long as the consumer, having been given notice and an opportunity to opt out, did not opt out. ''Other information'' refers to information that is covered by the FCRA and that is not a report containing information solely as to transactions or experiences between the consumer and the person making the report.

The 1996 Amendments prohibited the Agencies from issuing implementing regulations. 15 U.S.C. 1681s(a)(4) (repealed). The Gramm-Leach-Bliley Act (GLBA) repealed this prohibition and directed the Agencies to prescribe jointly such regulations as necessary to carry out the purposes of the FCRA. Pub. L. Sec. 506, 106–102, 15 U.S.C. 1681s(e).

Coordination With Privacy Regulations

The GLBA sets standards for financial institutions' disclosure of nonpublic personal information to nonaffiliated third parties (privacy provisions; Pub. L. 106–102, 15 U.S.C. 6802; *see also* 15 U.S.C. 6803). The Agencies published final regulations implementing these privacy provisions on June 1, 2000 (privacy regulations; 65 FR 35162, June 1, 2000).

The privacy regulations do not ''modify, limit, or supersede the operation of the Fair Credit Reporting Act.'' 15 U.S.C. 6806. Thus, both the privacy regulations and the FCRA may apply to an institution's disclosure of consumer information. Moreover, if a financial institution provides an opt out notice under the FCRA, that notice must be included in certain notices mandated by the privacy regulations, including annual notices to customers. 15 U.S.C. 6803. Therefore, the Agencies anticipate that financial institutions will design their information-sharing policies and practices taking into account both the privacy regulations and the regulations implementing the FCRA.

To ease compliance and promote consistency, the Agencies are conforming the two regulations where appropriate. For example, the Agencies are proposing requirements regarding the content and delivery of the FCRA opt out notice that are generally consistent with the corresponding provisions of the privacy regulations.

This Proposal and Future Agency Issuances

The FCRA raises many significant issues in addition to affiliate information sharing. The Agencies are analyzing these issues and expect to address them in an Advance Notice of Proposed Rulemaking. Additionally, the Agencies will review a series of questions and answers regarding the FCRA (Qs & As) that the Agencies (including the Federal Home Loan Bank Board, predecessor of the OTS) issued in 1971. These were designed to help financial institutions develop a working knowledge of the statute. The Agencies will modify or withdraw any Qs & As that are inconsistent with the FCRA or obsolete.

II. Section-by-Section Analysis

Section __.1 Purpose and Scope

Proposed paragraph ____.1(a) briefly describes the purpose of the regulations. Proposed paragraph ____.1(b) briefly describes the scope of the regulations, including the information and institutions subject to them. (These institutions are identified in more detail in proposed section ____.3(m) of the Board, FDIC, and OTS regulations.)

Paragraph ____.1(b) also provides that nothing in this part modifies, limits, or supersedes the standards governing the privacy of individually identifiable health information promulgated by the Secretary of Health and Human Services pursuant to sections 262 and 264 of the Health Insurance Portability and Accountability Act (HIPAA) of 1996 (42 U.S.C. 1320d–1320d–8). Certain institutions that possess medical information about consumers may be covered by these regulations, the GLBA privacy regulations, and rules promulgated by the Department of Health and Human Services (HHS) under the authority of sections 262 and 264 of HIPAA once those regulations are finalized. Based on the proposed HIPAA rules, it appears likely that there will be areas of overlap between the HIPAA and the FCRA affiliate information-sharing rules. For instance under the HIPAA proposal, consumers must provide affirmative authorization before a ''covered institution'' or its ''business partner'' may disclose medical information in certain instances, whereas under these proposed FCRA affiliate information sharing rules, institutions need only provide consumers with the opportunity to opt out of disclosures. In cases where the HIPAA requires consumers to opt in before certain information may be shared, but this rule allows consumers to opt out of the same sharing, opt in would be necessary before the information may be shared. The Agencies will consult with HHS to avoid the imposition of duplicative or inconsistent requirements.

Section __.2 Examples

Proposed section __.2 clarifies that the examples used in the regulations and in the sample notice are not exclusive means of compliance; rather, they are

[1] The FCRA creates substantial obligations for ''consumer reporting agencies.'' FCRA, section 603(f); see, *e.g.,* sections 607, 611. These obligations include furnishing consumer reports only for permissible purposes, maintaining high standards for ensuring the accuracy of information in consumer reports, resolving customer disputes, and other matters.

intended to provide guidance on how to comply in specific situations.

The Agencies solicit comment on whether to include additional or different examples, and, more fundamentally, on whether including examples in the regulations is appropriate and useful. Instead of addressing specific fact situations through such examples, the Agencies could periodically issue interagency staff commentaries or questions and answers.

The Agencies note that an example that mentions a particular activity does not, by itself, authorize an institution to engage in that activity. Any such authority must have an independent source.

Section __.3 Definitions

Discussed below are a few key definitions, including: ''affiliate'' (as well as the related terms ''company'' and ''control''); ''clear and conspicuous''; ''opt out''; ''opt out information''; and ''consumer report.'' The proposal tracks the statutory language referring to ''transaction or experience information,'' but does not define that term.

Affiliate

Several FCRA provisions apply to information sharing with persons ''related by common ownership or affiliated by corporate control,'' ''related by common ownership or affiliated by common corporate control,'' or ''affiliated by common ownership or common corporate control.'' *E.g.,* FCRA, sections 603(d)(2), 615(b)(2), and 624(b)(2). Proposed paragraph (b) defines ''affiliate'' to refer to all these relationships between and among companies, and clarifies that ''related or affiliated by common ownership or affiliated by corporate control or common corporate control'' means controlling, controlled by, or under common control with another company.

Consistent with the definitions in the privacy regulations, the proposal uses a definition of ''control'' that applies exclusively to the control of a ''company,'' and defines ''company'' to include any corporation, limited liability company, business trust, general or limited partnership, association, or similar organization. *See* proposed paragraphs (e) (''company'') and (i) (''control''). The definition of ''company'' omits some entities that are ''persons'' under the FCRA—individuals, estates, cooperatives, governments, and governmental subdivisions or agencies. The Agencies, however, are not aware of any circumstances where ''control'' could be exercised over individuals, government agencies, and other persons that do not fit within the definition of ''company.'' Comment is solicited on whether the proposed definition of ''control'' should be expanded to apply to these additional types of persons.

Clear and Conspicuous

Proposed paragraph (c) defines ''clear and conspicuous'' to mean that a notice must be reasonably understandable and designed to call attention to the nature and significance of the information it contains. The proposed regulations do not mandate the use of any particular technique for making a notice clear and conspicuous; instead, they give institutions flexibility in determining how to comply. An institution may make its notice reasonably understandable by, for example, using short explanatory sentences or bullet lists and avoiding legal or highly technical business terminology whenever possible. An institution may design its notice to call attention to the nature and significance of the information in the notice by, for example, using a plain-language heading and a typeface and size that are easy to read.

Paragraph (c) is consistent with the ''clear and conspicuous'' standard in the privacy regulations. As such, it offers a more detailed exposition of the standard (particularly with respect to what makes a notice ''conspicuous'') than some other regulations, such as the Board's Regulation Z. However, laws other than FCRA—for example, the Truth in Lending Act—that require clear and conspicuous disclosures, are beyond the scope of this rulemaking. Accordingly, the standard proposed here does not affect disclosures required by those laws.

The Agencies request comment on whether institutions have any particular concerns about compliance with FCRA's clear and conspicuous standard when FCRA opt out notices are included with the GLBA privacy provision notices.

Consumer Report

Proposed paragraph (g) parallels the definition in section 603(d) of the FCRA. Paragraph (g)(2)(ii) excludes from the definition of ''consumer report'' communication among affiliates of a report containing information solely as to transactions or experiences between the consumer and the person making the report.[2]

Paragraph (g)(2)(iii) excludes any communication of ''opt out information'' if the conditions set out in sections __.4–__.9 are satisfied. The FCRA, as explained above, uses the term ''other information'' to refer to information that it covers but that is not transaction or experience information. This proposal refers to ''other information'' using the more descriptive term ''opt out information.'' *See* proposed paragraph (k).

Opt Out

Proposed paragraph (j) defines this term to mean a direction by a consumer that an institution not communicate opt out information about the consumer to one or more of the institution's affiliates.

Opt Out Information

As described above, the 1996 Amendments to FCRA excluded from the definition of ''consumer report'' the sharing of ''other information'' among affiliates, so long as the consumer, having been given notice and an opportunity to opt out, did not opt out. ''Other information'' refers to information that is covered by the FCRA and that is not a report containing information solely as to transactions or experiences between the consumer and the person making the report. The proposed regulation uses the term ''opt out information'' to describe this category of information.

Proposed paragraph (k) defines opt out information as information that (i) bears on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living, (ii) is used or expected to be used or collected for one of the permissible purposes listed in FCRA (*e.g.,* credit transaction, insurance underwriting, employment purposes), and (iii) is not solely transaction or experience information. Section ____.5(d) gives examples of categories of information that qualify as opt out information.

Section __.4 Communication of Opt Out Information to Affiliates

Proposed section __.4 describes the conditions that an institution must meet to ensure that its communication of opt out information to its affiliates do not constitute consumer reports including

[2] Prior to the 1996 amendments to FCRA, affiliated entities could not pool their transaction or experience information in a common database without being considered a consumer reporting agency. Instead, each affiliate could disclose its own transaction or experience information to another affiliate directly only in the same manner as an entity can disclose information to a nonaffiliated third party. While transaction or experience information has been excluded from the definition of ''consumer report'' since the FCRA's initial passage, the 1996 amendments facilitated the disclosure of such information *among* affiliates.

the requirement that the institution provide an opt out notice.

Section 603(d)(2)(A)(iii) of the FCRA excludes from the definition of ''consumer report'' the sharing of opt out information among affiliates if:

> it is clearly and conspicuously disclosed to the consumer that the information may be communicated among such persons and the consumer is given the opportunity, before the time that the information is initially communicated, to direct that such information not be communicated among such persons * * *.

Proposed section ____.4 accordingly provides that opt out information may be communicated among affiliates without the communication being a consumer report if: (i) The institution has provided an opt out notice; (ii) the institution has given the consumer a reasonable opportunity and means, before the time that it communicates the information, to opt out; and (iii) the consumer has not opted out.

Mergers & Acquisitions

In a merger or acquisition situation, the need to provide new opt out notices to the customers of the entity that ceases to exist will depend on whether the notices previously given to those customers accurately reflect the policies and practices of the surviving entity. If they do, the surviving entity will not be required under the rule to provide new notices.

Section __.5 Contents of Opt Out Notice

Proposed paragraph (a) provides that an opt out notice must be clear and conspicuous, and must accurately explain: (i) The categories of opt out information about the consumer that the institution communicates; (ii) the categories of affiliates to which the institution communicates the information; (iii) the consumer's ability to opt out; and (iv) the means to do so. The Agencies invite comment on whether financial institutions should also have to disclose in their FCRA notices how long a consumer has to respond to the opt out notice before the institution may begin disclosing information about that consumer to its affiliates, as well as the fact that a consumer can opt out at any time. These disclosures are not required in the privacy regulations. The Agencies seek comment on whether the benefits of the additional disclosures would outweigh the burdens, and, if so, whether the regulation should require the disclosures to state that a financial institution will wait 30 days in every instance before sharing consumer information with affiliates (*see* proposed section __.6, below, for additional discussion on reasonable opportunity to opt out).

Proposed paragraph (b) clarifies that an institution's notice may describe not only the communications of opt out information that the institution currently plans to make to its affiliates, but also the communications that it reserves the right to make in the future. Proposed paragraph (c) explains that an institution may, but need not, provide the consumer with the option of an opt out that covers only part of the information or certain affiliates. This would enable an institution to give consumers a menu of opt out choices if it desires to do so.

Paragraph (d) explains how an institution can satisfy the requirement that it categorize the opt out information that it communicates. Paragraph (d)(2) gives examples of categories of opt out information, such as information from a consumer's application, information from a consumer report, information obtained by verifying representations made by a consumer, and information provided by another person regarding that person's relationship with a consumer. The first two categories reflect the legislative history of the 1996 Amendments, which states in part that the opt out provision ''will clarify that affiliates within a Holding Company structure can share any application information * * * and consumer reports, consistent with the FCRA.'' S. Rep. No. 185, 104th Cong., 1st Sess. 18–19 (1995). The other two categories represent information that the Agencies believe does not constitute transaction or experience information when communicated by the institution that has received it. Paragraph (d)(3) gives a non-exclusive list of examples of specific items of opt out information within each category, including a consumer's income, credit score or credit history, open lines of credit, employment history, marital status and medical history.

Medical data are especially sensitive for many consumers; if such data are among the opt out information that an institution communicates to its affiliates, the institution satisfies the requirement to categorize that information only if it includes examples of medical data that it intends to share. The Agencies note that the items listed in paragraph (d)(3) as examples of information that would be included within the categories of opt out information are illustrative only. Those items would not be considered opt out information in cases where the information is obtained from a source other than those listed in paragraph (d)(2). Comment is requested as to the appropriateness of these examples of categories and items of opt out information, and whether additional or different examples should be used.

The descriptions of the categories of information set out in proposed paragraph (d)(2) differ somewhat from those in section __.6(c)(2) of the privacy regulations. The agencies solicit comment on the extent to which the categories in (d)(2) can be treated as consistent with similar categories in the privacy regulations (such as disclosures of information from consumer reporting agencies) in order to reduce compliance burden and consumer confusion.

Proposed paragraph (e) explains how an institution can satisfy the requirement that it categorize the affiliates to which it communicates opt out information.

Paragraph (f) cross-references the sample notice in appendix A, which presents a further illustration of the content of an opt out notice.

Section __.6 Reasonable Opportunity to Opt Out

Proposed paragraph (a) of section ____.6 states that financial institutions will provide a reasonable opportunity to opt out by providing a reasonable period of time for the consumer to opt out from the time that notice is delivered. Proposed paragraph (b) sets out examples of what is a reasonable period of time when notices are provided in person, by mail, or by electronic means. Comment is requested on whether there are other situations that would suggest a different reasonable period of time that the Agencies should note by example. Proposed paragraph (c) explains that a consumer may opt out at any time.

Section __.7 Reasonable Means of Opting Out

Proposed paragraph (a) sets forth the general rule that an institution provides a reasonable means of opting out if it provides a reasonably convenient method to the consumer to opt out. Examples of reasonable means of opting out and unreasonable means are set out in proposed paragraphs (b) and (c), respectively. Proposed paragraph (d) permits an institution to require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

Section __.8 Delivery of Opt Out Notices

Proposed paragraph (a) provides that an institution must deliver an opt out notice so that each consumer can reasonably be expected to receive actual

notice. As indicated by the examples provided in proposed paragraph (b), this is a lesser standard than actual notice. For instance, if an institution mails a printed copy of its notice to the last known mailing address of an existing customer, the institution has met its obligation even if the customer has changed addresses and never receives the notice.

An institution may give notice in writing or, if the consumer agrees, electronically. For example, the institution may e-mail its notice to a customer that conducts electronic transactions and has agreed to receive electronic notice. The Agencies invite comment on whether and how the proposed rules governing communications between a financial institution and a consumer via an electronic medium should be modified in light of the Electronic Signatures in Global and National Commerce Act (the E-Sign Act).[3]

Proposed paragraph (c) explains that oral notice alone does not comply with the notice requirement; however, oral notice may be provided in conjunction with appropriate written or electronic notice.

Proposed paragraph (d) explains that an institution must provide the notice so that the consumer can retain it or obtain it at a later time, and gives examples of retention or accessibility.

Proposed paragraph (e) permits an institution to provide a joint opt out notice with one or more of its affiliates that are identified in the notice, as long as the notice is accurate with respect to each entity jointly issuing the notice.

Proposed paragraph (f)(1) sets out rules that apply, notwithstanding any other provision of the regulations, when two or more consumers jointly obtain a product or service from an institution (referred to in the proposed regulation as joint consumers), such as a joint checking account. For example, an institution may provide a single opt out notice to joint accountholders. The notice must indicate whether the institution will consider an opt out by a joint accountholder as an opt out by all of the associated accountholders, or whether each accountholder may opt out separately. The institution may not require all accountholders to opt out before honoring an opt out direction by one of the joint accountholders. Paragraph (f)(2) gives examples of these rules.

Section __.9 Revised Opt Out Notice

Proposed section ____.9 addresses the situation in which an institution has provided a consumer with one or more opt out notices but later decides to communicate opt out information to its affiliates other than described in those notices. It explains that an institution must send a revised opt out notice that complies with section ____.4, including providing a reasonable means and opportunity to opt out, and communicating the information only if the consumer has not opted out.

Section __.10 Time by Which Opt Out Must be Honored

Proposed section ____.10 explains that if an institution provides a consumer with an opt out notice, and the consumer opts out, the institution must comply as soon as reasonably practicable after receiving the consumer's direction. Comment is solicited on whether the Agencies should establish a fixed number of days—for example, 30 days—that would be deemed a ''reasonably practicable'' period of time for complying with a consumer's opt out direction.

Section __.11 Duration of Opt Out

Proposed section ____.11 provides that an opt out continues to apply to the information and affiliates described in the applicable opt out notice until revoked by the consumer in writing, or if the consumer agrees, electronically, as long as the consumer continues to have a relationship with the institution. If the consumer's relationship with the institution terminates, the opt out will continue to apply to this information. However, a new notice and opportunity to opt out must be provided if the consumer establishes a new relationship with the institution.

Section __.12 Prohibition Against Discrimination

Proposed paragraph (a) reminds institutions that they may not ''discriminate against'' a consumer who is an ''applicant'' for credit because the applicant opts out. The source of this prohibition is the Equal Credit Opportunity Act (ECOA; 15 U.S.C. 1691 *et seq.*), which bars discrimination on a prohibited basis in any aspect of a credit transaction; one prohibited basis is exercising a right under the Consumer Credit Protection Act, which includes the FCRA. Proposed paragraph (b) provides examples of prohibited discrimination against an applicant. Paragraph (c) notes that the terms ''applicant'' and ''discriminate against'' have the meaning ascribed to these terms in 12 CFR part 202.

Appendix A

Appendix A, which is part of these regulations, contains a sample notice, part or all of which may be used to facilitate compliance with the notice requirements. Although use of the sample notice is not required, institutions using it properly to provide notices will be deemed to be in compliance.

The Agencies solicit comment on all aspects of the proposed regulations, including but not limited to those highlighted above.

III. FDIC's Electronic Public Comment Site

The FDIC has included a page on its web site to facilitate the submission of electronic comments in response to this general solicitation (the EPC site). The EPC site provides an alternative to the written letter and may be a more convenient way for you to submit your comments. Commenting through the EPC site will assist the FDIC to more accurately and efficiently analyze comments submitted electronically. If you submit your comments through the EPC site your comments will receive the same consideration that they would receive if submitted in hard copy to the FDIC's street address. Information provided through the EPC site will be used by the FDIC only to assist in its analysis of the proposed regulation. The FDIC will not use an individual's name or any other personal identifier of an individual to retrieve records or information submitted through the EPC site. Like comments submitted in hard copy to the FDIC's street address, EPC site comments will be made available in their entirety (including the commenter's name and address if the commenter chooses to provide them) for public inspection.

The EPC site will be available on the FDIC's home page at http://www.fdic.gov. You will be able to provide comments directly on any of the sections of the proposed regulation as well as the specific questions that have been asked in the preceding Supplementary Information section. You will also be able to view the regulation and Supplementary Information sections that related to your comments directly on the site. Because the GLBA authorizes promulgation of this regulation, the FDIC encourages you to provide written comments in the

[3] Congress recently enacted the E-Sign Act, Pub. L. 106–229, which addresses the use of electronic records and signatures for interstate and foreign commerce. This legislation contains general rules governing the use of electronic records for providing required information to consumers (such as disclosures and acknowledgments required by the GLBA). The legal requirement that consumer disclosures be in writing may be satisfied by an electronic record if the consumer affirmatively consents and certain other requirements of the E-Sign Act are met.

spaces provided. Written comments enable the FDIC to thoughtfully consider possible changes to the proposed regulation.

The FDIC is also interested in your feedback on the EPC site. We have provided a space for you to comment on the site itself. Answers to this question will help the FDIC to evaluate the EPC site for use in future rulemaking.

At the conclusion of the EPC site you will have an opportunity to provide us with your name, indicate whether you are an individual, insured depository institution, financial holding company, community-based organization, trade association, government agency, or other, and provide the name of the organization you represent, if applicable. Whether you choose to respond to these questions is entirely up to you. Any responses received may help the FDIC to better understand the public comments it receives.

IV. Regulatory Analysis

Paperwork Reduction Act

The Agencies invite comment on: (1) Whether the collections of information contained in this notice of proposed rulemaking are necessary for the proper performance of each Agency's functions, including whether the information has practical utility; (2) the accuracy of each Agency's estimate of the burden of the proposed information collections; (3) ways to enhance the quality, utility, and clarity of the information to be collected; (4) ways to minimize the burden of the information collections on respondents, including the use of automated collection techniques or other forms of information technology; and (5) estimates of capital or start-up costs and costs of operation, maintenance, and purchases of services to provide information. No person is required to respond to these collections of information unless the collections display a currently valid Office of Management and Budget (OMB) control number. The Agencies are currently requesting their respective control numbers for these information collections from OMB.

This proposed regulation contains disclosure requirements for certain financial institutions and their affiliates. A financial institution that (a) has affiliates, (b) does not wish to be considered a consumer reporting agency, and (c) wishes to share consumer information (other than transaction and experience information) with its affiliates, must prepare and provide a notice to all its consumers advising them of their opportunity to opt out of information sharing with companies in the institution's corporate family. 12 CFR ____.4. If a financial institution wishes to share information in a way that is inconsistent with notices previously given to consumers, the institution must provide consumers with revised notices. 12 CFR ____.11. The proposed regulation also contains consumer reporting provisions. In order for consumers to opt out, they must respond to the institution's opt out notices. 12 CFR ____.7. At any time during their continued relationship with the institution, consumers have the right to change or update their opt out status with the institution. 12 CFR ____.10.

FCRA was amended to include disclosure and opt out provisions in 1996, but the Agencies were prohibited from issuing implementing regulations until 1999. Thus, the collections of information contained in this proposed rule are not new requirements. During the past three years, financial institutions have developed systems, policies, and procedures to bring themselves into compliance with the 1996 FCRA amendments. In estimating the burden associated with the collections of information in this proposed regulation, the Agencies took into account the fact that FCRA-related disclosure and opt out requirements have already become a usual and customary practice for covered institutions. However, because the proposed rule is more explicit and detailed than the statute, some institutions may need to revise their disclosure policies or their notices, and consumers may need to respond to the revised notices. The burden associated with these changes to current practice is represented in the estimates below. In estimating burden, the Agencies also assumed that if a financial institution provides an opt out notice under the FCRA, that notice must be included in certain notices mandated by the GLBA privacy provisions, and will not be sent out separately. The collection of information requirements contained in this notice of proposed rulemaking will be submitted to the Office of Management and Budget for review in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507).

The estimated number of bank respondents includes the total institutions supervised by each of the Agencies that have certain affiliate relationships. The requirements of the regulation only apply to institutions that share opt out information with affiliates that do not wish to be consumer reporting agencies; therefore, the Agencies cannot currently predict with certainty how many of these institutions will be subject to the rule. The analysis assumes that all institutions with certain affiliates will in fact, choose to share opt out information and thus be subject to the rule.

The estimated number of consumers who will receive opt out notices is the sum of deposit and loan consumers, and is derived from data in Board consumer studies. Each Agency's share of the total number of consumers is based on the share of total deposits, and consumer and mortgage loans, held by institutions supervised by the Agencies. Because OTS collects different information about consumer loans than the other Agencies, OTS estimated the number of thrift borrowers by dividing total consumer loans outstanding by the average balance, for different types of consumer loans. The analysis assumes that institutions will provide separate opt out notices based on product lines such as loans and deposit accounts, rather than single, combined notices covering all of the various relationships a consumer may have with the institution. The Agencies seek comment as to whether institutions would likely send separate or combined notices.

OCC: Comments on the collections of information should be sent to the Office of Management and Budget, Paperwork Reduction Project (1557—to be assigned), Washington, DC 20503, with copies to Jessie Dunaway, Legislative and Regulatory Activities Division (1557—to be assigned), Office of the Comptroller of the Currency, 250 E Street, SW, Washington, DC 20219. The likely respondents are national banks that do not wish to be considered consumer reporting agencies, but want to share information (other than transaction or experience information) with their affiliates.

Estimated number of bank respondents: 737.

Estimated average annual burden hours per bank respondent: 8 hours.

Estimated number of consumer respondents: 94,238,000.

Estimated average annual burden hours per consumer respondent: 5 minutes.

Estimated total annual reporting burden: 7,855,921 hours.

The number of consumer respondents provided by the OCC represents a conservative estimate based upon the total number of consumers who will receive an opt out notice. The OCC is using these conservative estimates because it lacks more precise data on the number of consumers who will exercise their opt out rights. The OCC expects that the actual number of consumer respondents will be lower than the estimate provided above, and invites comment on the number of

consumers who will respond to the FCRA opt out notices.

Board: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506; 5 CFR 1320, appendix A.1), the Board reviewed the notice of proposed rulemaking under the authority delegated to the Board by the OMB. Comments on the collections of information should be sent to Mary M. West, Federal Reserve Board Clearance Officer, Mail Stop 97, Board of Governors of the Federal Reserve System, Washington, DC 20551, with a copy to the Office of Management and Budget, Paperwork Reduction Project (7100—to be assigned), Washington, DC 20503. The likely respondents are member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act, that do want to share information (other than transaction or experience information) with their affiliates.

Estimated number of bank respondents: 996.

Estimated average annual burden hours per bank respondent: 8 hours.

Estimated number of consumer respondents: 39,251,000.

Estimated average annual burden hours per consumer respondent: five minutes.

Estimated total annual reporting burden: 3,278,885 hours.

FDIC: Comments on the collections of information should be sent to Steven F. Hanft, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429, with a copy to the Office of Management and Budget, Paperwork Reduction Project (3064—to be assigned), Washington, DC 20503. The likely respondents are insured nonmember banks with affiliates, that do not wish to be considered consumer reporting agencies, and do want to share information (other than transaction or experience information) with their affiliates.

Estimated number of bank respondents: 1,640.

Estimated average annual burden hours per bank respondent: 8 hours.

Estimated number of consumer respondents: 24,445,000.

Estimated average annual burden hours per consumer respondent: five minutes.

Estimated total annual reporting burden: 2,049,389 hours.

OTS: Comments on the collection of information should be sent to the Dissemination Branch (1550—to be assigned), Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552, with a copy to the Office of Management and Budget, Paperwork Reduction Project (1550—to be assigned), Washington, DC 20503. The likely respondents are savings associations with affiliates that do not wish to be considered consumer reporting agencies, and do want to share information (other than transaction or experience information) with their affiliates, and consumers.

Estimated number of thrift respondents: 762.

Estimated average annual burden hours per thrift respondent: 8 hours.

Estimated number of consumer respondents: 49,925,225.

Estimated average annual burden hours per consumer respondent: .0833 hours (5 minutes).

Estimated total annual reporting burden: 4,164,867 hours.

Regulatory Flexibility Act

OCC: Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the OCC certifies that this proposal will not have a significant economic impact on a substantial number of small entities. Financial institutions have had to notify their consumers of the right to opt out of affiliate sharing of certain information since 1997. This rulemaking provides guidance to national banks concerning how they may comply with the statutory requirements, but requires no new type of disclosure or opt out system. While existing forms may need to be modified, these modifications are unlikely to result in a significant economic impact on a substantial number of small entities.

In addition, some of the requirements in the proposed rule have been designed to correspond to the requirements of the privacy regulations. For example, under both regulations, financial institutions, in certain circumstances, must deliver notices to consumers and to provide consumers an opportunity to opt out of certain information disclosures. This proposed rule would allow financial institutions to combine into one notice the notice they must deliver under FCRA and the notice that they must deliver under the privacy regulations. Also, institutions may combine their consumers' opt out responses into one opt out response. By combining the notices they deliver and the opt out responses they process, financial institutions will not need to produce additional notices or to process additional opt out responses under this rule. Because the proposed rule is designed to minimize FCRA's burden on financial institutions, and because the FCRA requirements have been effective since 1997, the OCC believes that this proposed rule will not have a significant economic impact on a substantial number of small entities. For these reasons, a regulatory flexibility analysis is not required.

Board: Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Board certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. As further discussed below, the proposed rule implements law that has been in effect for some time, corresponds as much as feasible to the requirements of the Board's Regulation P, would allow institutions to combine privacy and FCRA notices to consumers, and would allow institutions to combine consumers' responses to those notices. Accordingly, a regulatory flexibility analysis is not required.

Since 1997, the FCRA has provided that the term ''consumer report'' does not include any communication of other information (meaning information that is not transaction or experience information) among persons related by common ownership or affiliated by corporate control, if it is clearly and conspicuously disclosed to the consumer that the information may be communicated among such persons and the consumer is given the opportunity, before the time that the information is initially communicated, to direct that such information not be communicated among such persons. The proposed regulations would implement this provision and would provide guidance to certain Board-regulated institutions on how to comply, but would not substantively change existing law. No new type of disclosure or opt-out system would be required. While existing forms may need to be modified, these modifications are unlikely to result in a significant economic impact on a substantial number of small entities.

Additionally, the proposed rule is designed to correspond as much as feasible to the requirements of Regulation P, which governs the privacy of consumer financial information. Both regulations implement statutory provisions for the delivery of information-sharing opt out notices to consumers. The proposed rule would facilitate compliance by financial institutions with the requirement to provide privacy notices and the use of opt out notices under the FCRA by allowing the two notices to be combined

in a single notice. Similarly, institutions would be allowed to combine their consumers' opt out responses in a single opt out response. By choosing to combine the notices they deliver and the opt out responses they process, financial institutions will not need to produce additional notices or to process additional opt out responses under this rule. For these reasons, a regulatory flexibility analysis is not required.

FDIC: Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the FDIC certifies that the proposed rule will not have a significant economic impact on a substantial number of small entities. This conclusion is based on the following facts. The FCRA has required financial institutions to notify their consumers of the right to opt out of affiliate sharing of certain information since 1997. However, prior to the GLBA, the Agencies had no authority to issue rules to provide financial institutions with guidance to comply with the FCRA requirements. This proposed rulemaking does not substantively change the existing statutory requirements, but rather provides guidance to financial institutions that should minimize any burden associated with complying with the subject FCRA information sharing provisions. This proposal requires no new type of disclosure or opt out system. While existing forms may need to be modified, these modifications are unlikely to result in a significant economic impact on a substantial number of small entities. The Agencies have attempted to minimize any such economic impact by including a sample notice, part or all of which may be used to facilitate compliance with the notice requirements.

Further, this proposed rule is designed to be consistent with the requirements of the regulation governing the privacy of consumer financial information. Both rules implement statutory requirements for financial institutions, in certain circumstances, to deliver notices to consumers and to provide consumers an opportunity to opt out of certain information disclosures. The Agencies have made the FCRA notice guidance parallel to the privacy rule requirements, thus facilitating the delivery of a single notice to consumers. Similarly, institutions may combine their consumers' opt out responses into one opt out response. By combining the notices they deliver and the opt out responses they process, financial institutions will not need to produce additional notices or to process additional opt out responses under this rule.

For the above reasons, the FDIC believes that this proposed rule will not have a significant economic impact on a substantial number of small entities, and a regulatory flexibility analysis is not required.

OTS: Pursuant to section 605(b) of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Director of OTS certifies that this proposed rulemaking would not have a significant economic impact on a substantial number of small entities. The FCRA has required thrifts to notify their consumers of the right to opt out of affiliate sharing of certain information since 1997. However, prior to GLBA, OTS did not have authority to issue rules to provide thrifts with guidance to comply with the FCRA. This proposed rulemaking does not substantively change or add to the existing statutory requirements. It merely provides thrifts with guidance to help minimize any burden associated with complying with the FCRA information sharing provisions. This proposal requires no new type of disclosure or opt out system. While existing forms may need to be modified, these modifications are unlikely to result in a significant economic impact on a substantial number of small entities. The Agencies have attempted to minimize any such economic impact by including a sample notice, part or all of which thrifts may use to facilitate the notice requirements.

Further, this proposed rule is designed to be consistent with the requirements of the regulation governing the privacy of consumer financial information, 12 CFR part 573. Both rules implement statutory requirements for financial institutions, in certain circumstances, to deliver notices to consumers and to provide consumers an opportunity to opt out of certain information disclosures. The Agencies have made the FCRA notice guidance parallel to the privacy rule requirements, thus facilitating the delivery of a single notice to consumers. Similarly, institutions may combine a consumer's opt out responses into one opt out response. By combining the notices they deliver and the opt out responses they process, financial institutions will not need to produce additional notices or to process additional opt out responses under this rule. For these reasons, a regulatory flexibility analysis is not required.

OCC and OTS Executive Order 12866 Determination

The OCC and OTS each has determined that its portion of the proposed rulemaking is not a significant regulatory action under Executive Order 12866.

OCC and OTS Unfunded Mandates Reform Act of 1995 Determination

Section 202 of the Unfunded Mandates Reform Act of 1995, 2 U.S.C. 1532 (Unfunded Mandates Act) requires that an agency prepare a budgetary impact statement before promulgating a rule that includes a Federal mandate that may result in expenditure by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. If a budgetary impact statement is required, section 205 of the Unfunded Mandates Act also requires an agency to identify and consider a reasonable number of regulatory alternatives before promulgating a rule. The OCC and OTS each has determined that this proposed rule will not result in expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more. Accordingly, neither the OCC nor the OTS has prepared a budgetary impact statement or specifically addressed the regulatory alternatives considered.

V. Solicitation of Comments on Use of Plain Language

Section 722 of the GLBA requires the Federal banking agencies to use plain language in all proposed and final rules published after January 1, 2000. We invite your comments on how to make this proposed rule easier to understand. For example:

- Have we organized the material to suit your needs? If not, how could this material be better organized?
- Are the requirements in the rule clearly stated? If not, how could the rule be more clearly stated?
- Do the regulations contain technical language or jargon that is not clear? If so, which language requires clarification?
- Would a different format (grouping and order of sections, use of headings, paragraphing) make the regulation easier to understand? If so, what changes to the format would make the regulation easier to understand?
- Would more, but shorter, sections be better? If so, which sections should be changed?
- What else could we do to make the regulation easier to understand?

The Agencies solicit comment on whether the inclusion of examples in the regulation is appropriate. Elevating the fact patterns to safe harbors in the rule may generate certain problems over time. For example, changes in technology or practices may ultimately

impact the fact patterns contained in the examples and require changes to the regulation. Are there alternative methods to offer illustrative guidance of the concepts portrayed by the examples?

List of Subjects

12 CFR Part 41

Banks, banking, Credit, National banks, Reporting and recordkeeping requirements.

12 CFR Part 222

Banks, banking, Credit, Federal Reserve System, Reporting and recordkeeping requirements, State member banks.

12 CFR Part 334

Banks, banking, Credit, Reporting and recordkeeping requirements.

12 CFR Part 571

Credit, Privacy, Reporting and recordkeeping requirements, Savings associations.

Office of the Comptroller of the Currency

12 CFR Chapter I

Authority and Issuance

For the reasons set forth in the joint preamble, the OCC proposes to amend chapter I of title 12 of the Code of Federal Regulations by adding a new part 41 to read as follows:

PART 41—FAIR CREDIT REPORTING

Sec.

Authority: 12 U.S.C. 93a; 15 U.S.C. 1681s.

§ 41.1 Purpose and scope.

(a) *Purpose.* This part governs the collection, communication, and use, by the institutions listed in paragraph (b)(2) of this section, of certain information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

(b) *Scope.* (1) *Information covered.* This part applies to information that is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing a consumer's eligibility for credit, insurance, employment, or any other purpose authorized under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).

(2) *Institutions covered.* This part applies to national banks, and Federal branches and Federal agencies of foreign banks (collectively referred to as ''bank'').

(3) *Relation to other laws.* Nothing in this part modifies, limits, or supersedes the standards governing the privacy of individually identifiable health information promulgated by the Secretary of Health and Human Services under the authority of sections 262 and 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–1320d–8).

§ 41.2 Examples.

The examples used in this part and the sample notice in appendix A to this part are not exclusive. Compliance with an example or use of the sample notice, to the extent applicable, constitutes compliance with this part.

§ 41.3 Definitions.

As used in this part, unless the context requires otherwise:

(a) *Act* means the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*).

(b) *Affiliate.* (1) *In general.* The term means any company that is related or affiliated by common ownership, or affiliated by corporate control or common corporate control, with another company.

(2) *Related or affiliated by common ownership or affiliated by corporate control or common corporate control.* This means controlling, controlled by, or under common control with, another company.

(c) *Clear and conspicuous.* (1) *In general.* The term means that a notice is reasonably understandable and is designed to call attention to the nature and significance of the information it contains.

(2) *Examples.* (i) *Reasonably understandable.* A bank makes its notice reasonably understandable if it:

(A) Presents the information in the notice in clear and concise sentences, paragraphs, and sections;

(B) Uses short explanatory sentences or bullet lists whenever possible;

(C) Uses definite, concrete, everyday words and active voice whenever possible;

(D) Avoids multiple negatives;

(E) Avoids legal and highly technical business terminology whenever possible; and

(F) Avoids explanations that are imprecise and are readily subject to different interpretations.

(ii) *Designed to call attention.* A bank designs its notice to call attention to the nature and significance of the information it contains if it:

(A) Uses a plain-language heading to call attention to the notice;

(B) Uses a typeface and type size that are easy to read;

(C) Provides wide margins and ample line spacing;

(D) Uses boldface or italics for key words; and

(E) In a form that combines the bank's notice with other information, uses distinctive type sizes, styles, and graphic devices, such as shading or sidebars.

(iii) *Notice on a web page.* If a bank provides a notice on a web page, the bank designs its notice to call attention to the nature and significance of the information it contains if the bank:

(A) Places either the notice, or a link that connects directly to the notice and that is labeled appropriately to convey the importance, nature, and relevance of the notice, on a page that consumers access often, such as a page on which transactions are conducted;

(B) Uses text or visual cues to encourage scrolling down the page if necessary to view the entire notice; and

(C) Ensures that other elements on the web page (such as text, graphics, links, or sound) do not detract attention from the notice.

(d) *Communication* includes written, oral, and electronic communication; provided that the term includes electronic communication to a consumer only if the consumer agrees to receive the communication electronically.

(e) *Company* means any corporation, limited liability company, business trust, general or limited partnership, association, or similar organization.

(f) *Consumer* means an individual.

(g) *Consumer report.* (1) *In general.* The term means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for:

(i) Credit or insurance to be used primarily for personal, family, or household purposes;

(ii) Employment purposes; or

(iii) Any other purpose authorized under section 604 of the Act (15 U.S.C. 1681b).

(2) *Exclusions.* The term does not include:

(i) Any report containing information solely as to transactions or experiences between the consumer and the person making the report;

(ii) Any communication of that information among affiliates;

(iii) Any communication among affiliates of opt out information if the conditions in §§ 41.4 through 41.9 are satisfied;

(iv) Any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;

(v) Any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his or her decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made, and the person makes the disclosures to the consumer required under section 615 of the Act (15 U.S.C. 1681m); or

(vi) A communication described in section 603(o) of the Act (15 U.S.C. 1681a(o)).

(h) *Consumer reporting agency* means any person which, for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(i) *Control* of a company means:

(1) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

(2) Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of the company; or

(3) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the Office of the Comptroller of the Currency determines.

(j) *Opt out* means a direction by a consumer that a bank not communicate opt out information about the consumer to one or more of its affiliates.

(k) *Opt out information* means information that:

(1) Bears on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living;

(2) Is used or expected to be used or collected in whole or in part to serve as a factor in establishing the consumer's eligibility for credit or another purpose listed in section 604 of the Act (15 U.S.C. 1681b); and

(3) Is not a report containing information solely as to transactions or experiences between the consumer and the person reporting or communicating the information.

(l) *Person* means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

§ 41.4 Communication of opt out information to affiliates.

A bank's communication to its affiliates of opt out information about a consumer is not a consumer report if:

(a) The bank has provided the consumer with an opt out notice;

(b) The bank has given the consumer a reasonable opportunity and means, before the bank communicates the information to its affiliates, to opt out; and

(c) The consumer has not opted out.

§ 41.5 Contents of opt out notice.

(a) *In general.* An opt out notice must be clear and conspicuous, and must accurately explain:

(1) The categories of opt out information about the consumer that a bank communicates to its affiliates;

(2) The categories of affiliates to which the bank communicates the information;

(3) The consumer's ability to opt out; and

(4) A reasonable means for the consumer to opt out.

(b) *Future communications.* A bank's notice may describe:

(1) Categories of opt out information about the consumer that the bank reserves the right to communicate to its affiliates in the future but does not currently communicate; and

(2) Categories of affiliates to which the bank reserves the right in the future to communicate, but to which the bank does not currently communicate, opt out information about the consumer.

(c) *Partial opt out.* A bank may allow a consumer to select certain opt out information or certain affiliates, with respect to which the consumer wishes to opt out.

(d) *Examples of categories of information that a bank communicates.* (1) A bank satisfies the requirement to categorize the opt out information that it communicates if the bank lists the categories in paragraph (d)(2) of this section, as applicable, and a few examples to illustrate the types of information in each category. These examples may include those in paragraph (d)(3) of this section, if applicable.

(2) Categories of opt out information may include information:

(i) From a consumer's application;

(ii) From a consumer credit report;

(iii) Obtained by verifying representations made by a consumer; or

(iv) Provided by another person regarding its employment, credit, or other relationship with a consumer.

(3) Examples of information within a category listed in paragraph (d)(2) of this section include a consumer's:

(i) Income;

(ii) Credit score or credit history with others;

(iii) Open lines of credit with others;

(iv) Employment history with others;

(v) Marital status; and

(vi) Medical history.

(4) A bank does not satisfy the requirement if it communicates or reserves the right to communicate individually identifiable health information (as described in section 1171(6)(B) of the Social Security Act (42 U.S.C. 1320d(6)(B)) but omits illustrative examples of this information.

(e) *Examples of categories of affiliates.* (1) A bank satisfies the requirement to categorize the affiliates to which it communicates opt out information if it lists the categories in paragraph (e)(2) of this section, as applicable, and a few examples to illustrate the types of affiliates in each category.

(2) Categories of affiliates may include:

(i) Financial service providers; and

(ii) Non-financial companies.

(f) *Sample notice.* A sample notice is included in appendix A to this part.

§ 41.6 Reasonable opportunity to opt out.

(a) *In general.* A bank provides a reasonable opportunity to opt out if it provides a reasonable period of time following the delivery of the opt out notice for the consumer to opt out.

(b) *Examples of reasonable period of time:* (1) *In person.* A bank hand-delivers an opt out notice to the consumer and provides at least 30 days from the date it delivered the notice.

(2) *By mail.* A bank mails an opt out notice to a consumer and provides at least 30 days from the date it mailed the notice.

(3) *By electronic means.* A bank notifies the consumer electronically,

and it provides at least 30 days after the date that the consumer acknowledges receipt of the electronic notice.

(c) *Continuing opportunity to opt out.* A consumer may opt out at any time.

§ 41.7 Reasonable means of opting out.

(a) *General rule.* A bank provides a consumer with a reasonable means of opting out if it provides a reasonably convenient method to opt out.

(b) *Reasonably convenient methods.* Examples of reasonably convenient methods include:

(1) Designating check-off boxes in a prominent position on the relevant forms included with the opt out notice;

(2) Including a reply form together with the opt out notice;

(3) Providing an electronic means to opt out, such as a form that can be electronically mailed or a process at the bank's web site, if the consumer agrees to the electronic delivery of information; or

(4) Providing a toll-free telephone number that consumers may call to opt out.

(c) *Methods not reasonably convenient.* Examples of methods that are not reasonably convenient include:

(1) Requiring a consumer to write his or her own letter to a bank; or

(2) Referring in a revised notice to a check-off box that a bank included with a previous notice but that the bank does not include with the revised notice.

(d) *Requiring specific means of opting out.* A bank may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

§ 41.8 Delivery of opt out notices.

(a) *In general.* A bank must deliver an opt out notice so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

(b) *Examples of expectation of actual notice.* (1) A bank may reasonably expect that a consumer will receive actual notice if it:

(i) Hand-delivers a printed copy of the notice to the consumer;

(ii) Mails a printed copy of the notice to the last known mailing address of the consumer; or

(iii) For the consumer who conducts transactions electronically, posts the notice on its electronic site and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular product or service;

(2) A bank may *not* reasonably expect that a consumer will receive actual notice if it:

(i) Only posts a sign in its branch or office or generally publishes advertisements presenting its notice; or

(ii) Sends the notice via electronic mail to a consumer who does not obtain a product or service from the bank electronically.

(c) *Oral description insufficient.* A bank may not provide an opt out notice solely by orally explaining the notice, either in person or over the telephone.

(d) *Retention or accessibility.* (1) *In general.* A bank must provide an opt out notice so that it can be retained or obtained at a later time by the consumer in writing or, if the consumer agrees, electronically.

(2) *Examples of retention or accessibility.* A bank provides the notice so that it can be retained or obtained at a later time if the bank:

(i) Hand-delivers a printed copy of the notice to the consumer;

(ii) Mails a printed copy of the notice to the last known address of the consumer upon request of the consumer; or

(iii) Makes the bank's current notice available on a web site (or a link to another web site) for the consumer who obtains a product or service electronically and who agrees to receive the notice at the web site.

(e) *Joint notice with affiliates.* A bank may provide a joint notice with one or more affiliates as long as the notice identifies each person providing it and is accurate with respect to each.

(f) *Joint relationships.* (1) *In general.* Notwithstanding any other provision in this part, if two or more consumers jointly obtain a product or service from a bank (joint consumers), the following rules apply:

(i) The bank may provide a single notice to all of the joint consumers.

(ii) Any of the joint consumers has the opportunity to opt out.

(iii) The bank may treat an opt out direction by a joint consumer either as:

(A) Applying to all of the joint consumers; or

(B) Applying to that particular joint consumer.

(iv) The bank must explain in its opt out notice which of the two policies set forth in paragraph (f)(1)(iii) of this section it will follow.

(v) If the bank follows the policy set forth in paragraph (f)(1)(iii)(B) of this section, by treating the opt out of a joint consumer as applying to that particular joint consumer, the bank must also permit:

(A) A joint consumer to opt out on behalf of other joint consumers; and

(B) One or more joint consumers to notify the bank of their opt out directions in a single response.

(vi) A bank may not require *all* joint consumers to opt out before it implements *any* opt out direction.

(vii) If a bank receives an opt out by a particular joint consumer that does not apply to the others, the bank may disclose information about the others as long as no information is disclosed about the consumer who opted out.

(2) *Example.* If consumers A and B, who have different addresses, have a joint checking account with a bank and arrange for the bank to send statements to A's address, the bank may do any of the following, but it must explain in its opt out notice which opt out policy the bank will follow. The bank may send a single opt out notice to A's address and:

(i) Treat an opt out direction by A as applying to the entire account. If the bank does so and A opts out, the bank may not require B to opt out as well before implementing A's opt out direction.

(ii) Treat A's opt out direction as applying to A only. If the bank does so, it must also permit:

(A) A and B to opt out for each other; and

(B) A and B to notify the bank of their opt out directions in a single response (such as on a single form) if they choose to give separate opt out directions.

(iii) If A opts out only for A, and B does not opt out, the bank may disclose opt out information only about B, and not about A and B jointly.

§ 41.9 Revised opt out notice.

If a bank has provided a consumer with one or more opt out notices and plans to communicate opt out information to its affiliates about the consumer other than as described in those notices, the bank must provide the consumer with a revised opt out notice that complies with §§ 41.4 through 41.8.

§ 41.10 Time by which opt out must be honored.

If a bank provides a consumer with an opt out notice and the consumer opts out, the bank must comply with the opt out as soon as reasonably practicable after the bank receives it.

§ 41.11 Duration of opt out.

An opt out remains effective until revoked by the consumer in writing or electronically, as long as the consumer continues to have a relationship with the bank. If the consumer's relationship with the bank terminates, the opt out will continue to apply to this information. However, a new notice and opportunity to opt out must be provided if the consumer establishes a new relationship with the bank.

§ 41.12 Prohibition against discrimination.

(a) *In general.* If a consumer is an applicant for credit, a bank must not discriminate against the consumer if the

consumer opts out of the bank's communication of opt out information to it affiliates.

(b) *Examples of discrimination against an applicant.* A bank discriminates against an applicant if it:

(1) Denies the applicant credit because the applicant opts out;

(2) Varies the terms of credit adversely to the applicant such as by providing less favorable pricing terms to an applicant who opts out; or

(3) Applies more stringent credit underwriting standards to the applicant because the applicant opts out.

(c) *Regulation B.* The terms ''applicant'' and ''discriminate against'' in § 41.12 have the same meanings ascribed to them in 12 CFR part 202.

Appendix A to Part 41—Sample Notice

This appendix contains a sample notice to facilitate compliance with the notice requirements of this part. An institution may use applicable disclosures in this sample to provide notices required by this part.

Notice of Your Opportunity To Opt Out of Information Sharing With Companies in Our Corporate Family

Information We Can Share With Our Corporate Family About You—Unless You Tell Us Not to

What Information: Unless you tell us not to, [*Financial Institution*] may share with companies in our corporate family information about you including:

- Information we obtain from your application, such as [*provide illustrative examples, such as ''your income'' or ''your marital status*''];
- Information we obtain from a consumer report, such as [provide illustrative examples, such as ''*your credit score or credit history*''];
- Information we obtain to verify representations made by you, such as [*provide illustrative examples, such as ''your open lines of credit*'']; and
- Information we obtain from a person regarding its employment, credit, or other relationship with you, such as [*provide illustrative examples, such as ''your employment history*''].

Shared With Whom: Companies in our corporate family who may receive this information are:

- Financial service providers, such as [*provide illustrative examples, such as ''mortgage bankers, broker-dealers, and insurance agents*'']; and
- Non-financial companies, such as [*provide illustrative examples, such as ''retailers, direct marketers, airlines, and publishers*''].

How To Tell Us Not To Share This Information With Our Corporate Family

If you prefer that we not share this information with companies in our corporate family, you may direct us not to share this information by doing the following [insert one or more of the reasonable means of opting out listed below [1]]: [*call us toll free at* {*insert toll free number*}]; or [*visit our web site at* {*insert web site address*} and {*provide further instructions how to use the web site option*}]; or [*e-mail us at* {*insert the e-mail address*}]; or [*fill out and tear off the bottom of this sheet and mail to the following address:* {*insert address*}]; or [*check the appropriate box on the attached form* {*attach form*} *and mail to the following address:* {*insert address*}].

Note: Your direction in this paragraph covers certain information about you that we might otherwise share with our corporate family. We may share other information about you with our corporate family as permitted by law.

Dated: September 22, 2000.

John D. Hawke, Jr.,

Comptroller of the Currency.

Federal Reserve System

12 CFR Chapter II

Authority and Issuance

For the reasons set forth in the joint preamble, chapter II of title 12 of the Code of Federal Regulations is proposed to be amended by adding a new part 222 to read as follows:

PART 222 FAIR CREDIT REPORTING (REGULATION V)

Sec.

Authority: 15 U.S.C. 1681s.

§ 222.1 Purpose and scope.

(a) *Purpose.* This part governs the collection, communication, and use, by the institutions listed in paragraph (b)(2) of this section, of certain information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

(b) *Scope.* (1) *Information covered.* This part applies to information that is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing a consumer's eligibility for credit, insurance, employment, or any other purpose authorized under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).

(2) *Institutions covered.* This part applies to member banks of the Federal Reserve System (other than national banks), branches and agencies of foreign banks (other than Federal branches, Federal agencies, and insured State branches of foreign banks), commercial lending companies owned or controlled by foreign banks, and organizations operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601–604a, 611–631).

(3) *Relation to other laws.* Nothing in this part modifies, limits, or supersedes the standards governing the privacy of individually identifiable health information promulgated by the Secretary of Health and Human Services under the authority of sections 262 and 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–1320d–8).

§ 222.2 Examples.

The examples used in this part and the sample notice in appendix A to this part are not exclusive. Compliance with an example or use of the sample notice, to the extent applicable, constitutes compliance with this part.

§ 222.3 Definitions.

As used in this part, unless the context requires otherwise:

(a) *Act* means the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*).

(b) *Affiliate.* (1) *In general.* The term means any company that is related or affiliated by common ownership, or affiliated by corporate control or common corporate control, with another company.

(2) *Related or affiliated by common ownership or affiliated by corporate control or common corporate control.* This means controlling, controlled by, or under common control with, another company.

(c) *Clear and conspicuous.* (1) *In general.* The term means that a notice is reasonably understandable and is designed to call attention to the nature and significance of the information it contains.

(2) *Examples.* (i) *Reasonably understandable.* You make your notice reasonably understandable if you:

(A) Present the information in the notice in clear and concise sentences, paragraphs, and sections;

(B) Use short explanatory sentences or bullet lists whenever possible;

[1] If the financial institution is using its web site or an e-mail address as the *only* method by which a consumer may opt out, the consumer must agree to the electronic delivery of information.

(C) Use definite, concrete, everyday words and active voice whenever possible;

(D) Avoid multiple negatives;

(E) Avoid legal and highly technical business terminology whenever possible; and

(F) Avoid explanations that are imprecise and are readily subject to different interpretations.

(ii) *Designed to call attention.* You design your notice to call attention to the nature and significance of the information it contains if you:

(A) Use a plain-language heading to call attention to the notice;

(B) Use a typeface and type size that are easy to read;

(C) Provide wide margins and ample line spacing;

(D) Use boldface or italics for key words; and

(E) In a form that combines your notice with other information, use distinctive type sizes, styles, and graphic devices, such as shading or sidebars.

(iii) *Notice on a web page.* If you provide a notice on a web page, you design your notice to call attention to the nature and significance of the information it contains if you:

(A) Place either the notice, or a link that connects directly to the notice and that is labeled appropriately to convey the importance, nature, and relevance of the notice, on a page that consumers access often, such as a page on which transactions are conducted;

(B) Use text or visual cues to encourage scrolling down the page if necessary to view the entire notice; and

(C) Ensure that other elements on the web page (such as text, graphics, links, or sound) do not detract attention from the notice.

(d) *Communication* includes written, oral, and electronic communication; provided that the term includes electronic communication to a consumer only if the consumer agrees to receive the communication electronically.

(e) *Company* means any corporation, limited liability company, business trust, general or limited partnership, association, or similar organization.

(f) *Consumer* means an individual.

(g) *Consumer report.* (1) *In general.* The term means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for:

(i) Credit or insurance to be used primarily for personal, family, or household purposes;

(ii) Employment purposes; or

(iii) Any other purpose authorized under section 604 of the Act (15 U.S.C. 1681b).

(2) *Exclusions.* The term does not include:

(i) Any report containing information solely as to transactions or experiences between the consumer and the person making the report;

(ii) Any communication of that information among affiliates;

(iii) Any communication among affiliates of opt out information if the conditions in §§ 222.4 through 222.9 are satisfied;

(iv) Any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;

(v) Any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his or her decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made, and the person makes the disclosures to the consumer required under section 615 of the Act (15 U.S.C. 1681m); or

(vi) A communication described in section 603(o) of the Act (15 U.S.C. 1681a(o)).

(h) *Consumer reporting agency* means any person which, for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(i) *Control* of a company means:

(1) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

(2) Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of the company;

(3) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the Board determines.

(j) *Opt out* means a direction by a consumer that you not communicate opt out information about the consumer to one or more of your affiliates.

(k) *Opt out information* means information that:

(1) Bears on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living;

(2) Is used or expected to be used or collected in whole or in part to serve as a factor in establishing the consumer's eligibility for credit or another purpose listed in section 604 of the Act (15 U.S.C. 1681b); and

(3) Is not a report containing information solely as to transactions or experiences between the consumer and the person reporting or communicating the information.

(l) *Person* means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(m) *You* means a member bank of the Federal Reserve System (other than a national bank), a branch or agency of a foreign bank (other than a Federal branch, Federal agency, or insured State branch of a foreign bank), a commercial lending company owned or controlled by a foreign bank, or an organization operating under section 25 or 25A of the Federal Reserve Act (12 U.S.C. 601–604a, 611–631).

§ 222.4 Communication of opt out information to affiliates.

Your communication to your affiliates of opt out information about a consumer is not a consumer report if:

(a) You have provided the consumer with an opt out notice;

(b) You have given the consumer a reasonable opportunity and means, before you communicate the information to your affiliates, to opt out; and

(c) The consumer has not opted out.

§ 222.5 Contents of opt out notice.

(a) *In general.* An opt out notice must be clear and conspicuous, and must accurately explain:

(1) The categories of opt out information about the consumer that you communicate to your affiliates;

(2) The categories of affiliates to which you communicate the information;

(3) The consumer's ability to opt out; and

(4) A reasonable means for the consumer to opt out.

(b) *Future communications.* Your notice may describe:

(1) Categories of opt out information about the consumer that you reserve the

right to communicate to your affiliates in the future but do not currently communicate; and

(2) Categories of affiliates to which you reserve the right in the future to communicate, but to which you do not currently communicate, opt out information about the consumer.

(c) *Partial opt out.* You may allow a consumer to select certain opt out information or certain affiliates, with respect to which the consumer wishes to opt out.

(d) *Examples of categories of information that you communicate.* (1) You satisfy the requirement to categorize the opt out information that you communicate if you list the categories in paragraph (d)(2) of this section, as applicable, and a few examples to illustrate the types of information in each category. These examples may include those in paragraph (d)(3) of this section, if applicable.

(2) Categories of opt out information may include information:

(i) From a consumer's application;

(ii) From a consumer credit report;

(iii) Obtained by verifying representations made by a consumer; or

(iv) Provided by another person regarding its employment, credit, or other relationship with a consumer.

(3) Examples of information within a category listed in paragraph (d)(2) of this section include a consumer's:

(i) Income;

(ii) Credit score or credit history with others;

(iii) Open lines of credit with others;

(iv) Employment history with others;

(v) Marital status; and

(vi) Medical history.

(4) You do not satisfy the requirement if you communicate or reserve the right to communicate individually identifiable health information (as described in section 1171(6)(B) of the Social Security Act (42 U.S.C. 1320d(6)(B)) but omit illustrative examples of this information.

(e) *Examples of categories of affiliates.* (1) You satisfy the requirement to categorize the affiliates to which you communicate opt out information if you list the categories in paragraph (e)(2) of this section, as applicable, and a few examples to illustrate the types of affiliates in each category.

(2) Categories of affiliates may include:

(i) Financial service providers; and

(ii) Non-financial companies.

(f) *Sample notice.* A sample notice is included in appendix A to this part.

§ 222.6 Reasonable opportunity to opt out.

(a) *In general.* You provide a reasonable opportunity to opt out if you provide a reasonable period of time following the delivery of the opt out notice for the consumer to opt out.

(b) *Examples of reasonable period of time:* (1) *In person.* You hand-deliver an opt out notice to the consumer and provide at least 30 days from the date you delivered the notice.

(2) *By mail.* You mail an opt out notice to a consumer and provide at least 30 days from the date you mailed the notice.

(3) *By electronic means.* You notify the consumer electronically, and you provide at least 30 days after the date that the consumer acknowledges receipt of the electronic notice.

(c) *Continuing opportunity to opt out.* A consumer may opt out at any time.

§ 222.7 Reasonable means of opting out.

(a) *General rule.* You provide a consumer with a reasonable means of opting out if you provide a reasonably convenient method to opt out.

(b) *Reasonably convenient methods.* Examples of reasonably convenient methods include:

(1) Designating check-off boxes in a prominent position on the relevant forms included with the opt out notice;

(2) Including a reply form together with the opt out notice;

(3) Providing an electronic means to opt out, such as a form that can be electronically mailed or a process at your web site, if the consumer agrees to the electronic delivery of information; or

(4) Providing a toll-free telephone number that consumers may call to opt out.

(c) *Methods not reasonably convenient.* Examples of methods that are not reasonably convenient include:

(1) Requiring a consumer to write his or her own letter to you; or

(2) Referring in a revised notice to a check-off box that you included with a previous notice but that you do not include with the revised notice.

(d) *Requiring specific means of opting out.* You may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

§ 222.8 Delivery of opt out notices.

(a) *In general.* You must deliver an opt out notice so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

(b) *Examples of expectation of actual notice.* (1) You may reasonably expect that a consumer will receive actual notice if you:

(i) Hand-deliver a printed copy of the notice to the consumer;

(ii) Mail a printed copy of the notice to the last known mailing address of the consumer; or

(iii) For the consumer who conducts transactions electronically, post the notice on your electronic site and require the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular product or service;

(2) You may *not* reasonably expect that a consumer will receive actual notice if you:

(i) Only post a sign in your branch or office or generally publish advertisements presenting your notice; or

(ii) Send the notice via electronic mail to a consumer who does not obtain a product or service from you electronically.

(c) *Oral description insufficient.* You may not provide an opt out notice solely by orally explaining the notice, either in person or over the telephone.

(d) *Retention or accessibility.* (1) *In general.* You must provide an opt out notice so that it can be retained or obtained at a later time by the consumer in writing or, if the consumer agrees, electronically.

(2) *Examples of retention or accessibility.* You provide the notice so that it can be retained or obtained at a later time if you:

(i) Hand-deliver a printed copy of the notice to the consumer;

(ii) Mail a printed copy of the notice to the last known address of the consumer upon request of the consumer; or

(iii) Make your current notice available on a web site (or a link to another web site) for the consumer who obtains a product or service electronically and who agrees to receive the notice at the web site.

(e) *Joint notice with affiliates.* You may provide a joint notice with one or more affiliates as long as the notice identifies each person providing it and is accurate with respect to each.

(f) *Joint relationships.* (1) *In general.* Notwithstanding any other provision in this part, if two or more consumers jointly obtain a product or service from you (joint consumers), the following rules apply:

(i) You may provide a single notice to all of the joint consumers.

(ii) Any of the joint consumers has the opportunity to opt out.

(iii) You may treat an opt out direction by a joint consumer either as:

(A) Applying to all of the joint consumers; or

(B) Applying to that particular joint consumer.

(iv) You must explain in your opt out notice which of the two policies set

forth in paragraph (f)(1)(iii) of this section you will follow.

(v) If you follow the policy set forth in paragraph (f)(1)(iii)(B) of this section, by treating the opt out of a joint consumer as applying to that particular joint consumer, you must also permit:

(A) A joint consumer to opt out on behalf of other joint consumers; and

(B) One or more joint consumers to notify you of their opt out directions in a single response.

(vi) You may not require *all* joint consumers to opt out before you implement any opt out direction.

(vii) If you receive an opt out by a particular joint consumer that does not apply to the others, you may disclose information about the others as long as no information is disclosed about the consumer who opted out.

(2) *Example.* If consumers A and B, who have different addresses, have a joint checking account with you and arrange for you to send statements to A's address, you may do any of the following, but you must explain in your opt out notice which opt out policy you will follow. You may send a single opt out notice to A's address and:

(i) Treat an opt out direction by A as applying to the entire account. If you do so and A opts out, you may not require B to opt out as well before implementing A's opt out direction.

(ii) Treat A's opt out direction as applying to A only. If you do so, you must also permit:

(A) A and B to opt out for each other; and

(B) A and B to notify you of their opt out directions in a single response (such as on a single form) if they choose to give separate opt out directions.

(iii) If A opts out only for A, and B does not opt out, you may disclose opt out information only about B, and not about A and B jointly.

§ 222.9 Revised opt out notice.

If you have provided a consumer with one or more opt out notices and plan to communicate opt out information to your affiliates about the consumer other than as described in those notices, you must provide the consumer with a revised opt out notice that complies with §§ 222.4 through 222.8.

§ 222.10 Time by which opt out must be honored.

If you provide a consumer with an opt out notice and the consumer opts out, you must comply with the opt out as soon as reasonably practicable after you receive it.

§ 222.11 Duration of opt out.

An opt out remains effective until revoked by the consumer in writing or electronically, as long as the consumer continues to have a relationship with you. If the consumer's relationship with you terminates, the opt out will continue to apply to this information. However, a new notice and opportunity to opt out must be provided if the consumer establishes a new relationship with you.

§ 222.12 Prohibition against discrimination.

(a) *In general.* If a consumer is an applicant for credit, you must not discriminate against the consumer if the consumer opts out of your communication of opt out information to your affiliates.

(b) *Examples of discrimination against an applicant.* You discriminate against an applicant if you:

(1) Deny the applicant credit because the applicant opts out;

(2) Vary the terms of credit adversely to the applicant such as by providing less favorable pricing terms to an applicant who opts out; or

(3) Apply more stringent credit underwriting standards to the applicant because the applicant opts out.

(c) *Regulation B.* The terms ''applicant'' and ''discriminate against'' in § 222.12 have the same meanings ascribed to them in 12 CFR part 202.

Appendix A to Part 222—Sample Notice

This appendix contains a sample notice to facilitate compliance with the notice requirements of this part. An institution may use applicable disclosures in this sample to provide notices required by this part.

Notice of Your Opportunity to Opt Out of Information Sharing With Companies in Our Corporate Family

Information We Can Share With Our Corporate Family About You—Unless You Tell Us Not To

What Information: Unless you tell us not to, [*Financial Institution*] may share with companies in our Corporate family information about you including:

- Information we obtain from your application, such as [*provide illustrative examples, such as ''your income'' or ''your marital status''*];
- Information we obtain from a consumer report, such as [*provide illustrative examples, such as ''your credit score or credit history''*];
- Information we obtain to verify representations made by you, such as [*provide illustrative examples, such as ''your open lines of credit''*]; and
- Information we obtain from a person regarding its employment, credit, or other relationship with you, such as [*provide illustrative examples, such as ''your employment history''*].

Shared With Whom: Companies in our corporate family who may receive this information are:

- Financial service providers, such as [*provide illustrative examples, such as ''mortgage bankers, broker-dealers, and insurance agents''*]; and
- Non-financial companies, such as [*provide illustrative examples, such as ''retailers, direct marketers, airlines, and publishers''*].

How To Tell Us Not To Share This Information With Our Corporate Family

If you prefer that we not share this information with companies in our corporate family, you may direct us not to share this information by doing the following [*insert one or more of the reasonable means of opting out listed below*[1]]: [*call us toll free at* {*insert toll free number*}]; or [*visit our web site at* {*insert web site address*} *and* {*provide further instructions how to use the web site option*}]; or [*e-mail us at* {*insert the e-mail address*}]; or [*fill out and tear off the bottom of this sheet and mail to the following address:* {*insert address*}]; or [*check the appropriate box on the attached form* {*attach form*} *and mail to the following address:* {*insert address*}].

Note: Your direction in this paragraph covers certain information about you that we might otherwise share with our corporate family. We may share other information about you with our corporate family as permitted by law.

By order of the Board of Governors of the Federal Reserve System, October 11, 2000.

Jennifer J. Johnson,

Secretary of the Board.

Federal Deposit Insurance Corporation

12 CFR Chapter III

Authority and Issuance

For the reasons set out in the joint preamble, chapter III of title 12 of the Code of Federal Regulations is proposed to be amended by adding a new part 334 to read as follows:

PART 334—FAIR CREDIT REPORTING

Sec.

Authority: 15 U.S.C. 1681s; 12 U.S.C. 1819(a)(Tenth).

[1] If the financial institution is using its web site or an e-mail address as the *only* method by which a consumer may opt out, the consumer must agree to the electronic delivery of information.

§ 334.1 Purpose and scope.

(a) *Purpose.* This part governs the collection, communication, and use, by the institutions listed in paragraph (b)(2) of this section, of certain information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

(b) *Scope.* (1) *Information covered.* This part applies to information that is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing a consumer's eligibility for credit, insurance, employment, or any other purpose authorized under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).

(2) *Institutions covered.* This part applies to banks insured by the FDIC (other than members of the Federal Reserve System) and insured state branches of foreign banks.

(3) *Relation to other laws.* Nothing in this part modifies, limits, or supersedes the standards governing the privacy of individually identifiable health information promulgated by the Secretary of Health and Human Services under the authority of sections 262 and 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–1320d–8).

§ 334.2 Examples.

The examples used in this part and the sample notice in appendix A to this part are not exclusive. Compliance with an example or use of the sample notice, to the extent applicable, constitutes compliance with this part.

§ 334.3 Definitions.

As used in this part, unless the context requires otherwise:

(a) *Act* means the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*).

(b) *Affiliate.* (1) *In general.* The term means any company that is related or affiliated by common ownership, or affiliated by corporate control or common corporate control, with another company.

(2) *Related or affiliated by common ownership or affiliated by corporate control or common corporate control.* This means controlling, controlled by, or under common control with, another company.

(c) *Clear and conspicuous.* (1) *In general.* The term means that a notice is reasonably understandable and is designed to call attention to the nature and significance of the information it contains.

(2) *Examples.* (i) *Reasonably understandable.* You make your notice reasonably understandable if you:

(A) Present the information in the notice in clear and concise sentences, paragraphs, and sections;

(B) Use short explanatory sentences or bullet lists whenever possible;

(C) Use definite, concrete, everyday words and active voice whenever possible;

(D) Avoid multiple negatives;

(E) Avoid legal and highly technical business terminology whenever possible; and

(F) Avoid explanations that are imprecise and are readily subject to different interpretations.

(ii) *Designed to call attention.* You design your notice to call attention to the nature and significance of the information it contains if you:

(A) Use a plain-language heading to call attention to the notice;

(B) Use a typeface and type size that are easy to read;

(C) Provide wide margins and ample line spacing;

(D) Use boldface or italics for key words; and

(E) In a form that combines your notice with other information, use distinctive type sizes, styles, and graphic devices, such as shading or sidebars.

(iii) *Notice on a web page.* If you provide a notice on a web page, you design your notice to call attention to the nature and significance of the information it contains if:

(A) You place either the notice, or a link that connects directly to the notice and that is labeled appropriately to convey the importance, nature, and relevance of the notice, on a page that consumers access often, such as a page on which transactions are conducted;

(B) You use text or visual cues to encourage scrolling down the page if necessary to view the entire notice; and

(C) You ensure that other elements on the web page (such as text, graphics, links, or sound) do not detract attention from the notice.

(d) *Communication* includes written, oral, and electronic communication; provided that the term includes electronic communication to a consumer only if the consumer agrees to receive the communication electronically.

(e) *Company* means any corporation, limited liability company, business trust, general or limited partnership, association, or similar organization.

(f) *Consumer* means an individual.

(g) *Consumer report.* (1) *In general.* The term means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for:

(i) Credit or insurance to be used primarily for personal, family, or household purposes;

(ii) Employment purposes; or

(iii) Any other purpose authorized under section 604 of the Act (15 U.S.C. 1681b).

(2) *Exclusions.* The term does not include:

(i) Any report containing information solely as to transactions or experiences between the consumer and the person making the report;

(ii) Any communication of that information among affiliates;

(iii) Any communication among affiliates of opt out information if the conditions in §§ 334.4 through 334.9 are satisfied;

(iv) Any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;

(v) Any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his or her decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made, and the person makes the disclosures to the consumer required under section 615 of the Act (15 U.S.C. 1681m); or

(vi) A communication described in section 603(o) of the Act (15 U.S.C. 1681a(o)).

(h) *Consumer reporting agency* means any person which, for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(i) *Control* of a company means:

(1) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

(2) Control in any manner over the election of a majority of the directors,

trustees, or general partners (or individuals exercising similar functions) of the company; or

(3) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the FDIC determines.

(j) *Opt out* means a direction by a consumer that you not communicate opt out information about the consumer to one or more of your affiliates.

(k) *Opt out information* means information that:

(1) Bears on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living;

(2) Is used or expected to be used or collected in whole or in part to serve as a factor in establishing the consumer's eligibility for credit or another purpose listed in section 604 of the Act (15 U.S.C. 1681b); and

(3) Is not a report containing information solely as to transactions or experiences between the consumer and the person reporting or communicating the information.

(l) *Person* means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(m) *You* means banks insured by the FDIC (other than members of the Federal Reserve System) and insured state branches of foreign banks.

§ 334.4 Communication of opt out information to affiliates.

Your communication to your affiliates of opt out information about a consumer is not a consumer report if:

(a) You have provided the consumer with an opt out notice;

(b) You have given the consumer a reasonable opportunity and means, before you communicate the information to your affiliates, to opt out; and

(c) The consumer has not opted out.

§ 334.5 Contents of opt out notice.

(a) *In general.* An opt out notice must be clear and conspicuous, and must accurately explain:

(1) The categories of opt out information about the consumer that you communicate to your affiliates;

(2) The categories of affiliates to which you communicate the information;

(3) The consumer's ability to opt out; and

(4) A reasonable means for the consumer to opt out.

(b) *Future communications.* Your notice may describe:

(1) Categories of opt out information about the consumer that you reserve the right to communicate to your affiliates in the future but do not currently communicate; and

(2) Categories of affiliates to which you reserve the right in the future to communicate, but to which you do not currently communicate, opt out information about the consumer.

(c) *Partial opt out.* You may allow a consumer to select certain opt out information or certain affiliates, with respect to which the consumer wishes to opt out.

(d) *Examples of categories of information that you communicate.* (1) You satisfy the requirement to categorize the opt out information that you communicate if you list the categories in paragraph (d)(2) of this section, as applicable, and a few examples to illustrate the types of information in each category. These examples may include those in paragraph (d)(3) of this section, if applicable.

(2) Categories of opt out information may include information:

(i) From a consumer's application;

(ii) From a consumer credit report;

(iii) Obtained by verifying representations made by a consumer; and

(iv) Provided by another person regarding its employment, credit, or other relationship with a consumer.

(3) Examples of information within a category listed in paragraph (d)(2) of this section include a consumer's:

(i) Income;

(ii) Credit score or credit history with others;

(iii) Open lines of credit with others;

(iv) Employment history with others;

(v) Marital status; and

(vi) Medical history.

(4) You do not satisfy the requirement if you communicate or reserve the right to communicate individually identifiable health information (as described in section 1171(6)(B) of the Social Security Act (42 U.S.C. 1320d(6)(B)) but omit illustrative examples of this information.

(e) *Examples of categories of affiliates.* (1) You satisfy the requirement to categorize the affiliates to which you communicate opt out information if you list the categories in paragraph (e)(2) of this section, as applicable, and a few examples to illustrate the types of affiliates in each category.

(2) Categories of affiliates may include:

(i) Financial service providers; and

(ii) Non-financial companies.

(f) *Sample notice.* A sample notice is included in appendix A to this part.

§ 334.6 Reasonable opportunity to opt out.

(a) *In general.* You provide a reasonable opportunity to opt out if you provide a reasonable period of time following the delivery of the opt out notice for the consumer to opt out.

(b) *Examples of reasonable period of time:* (1) *In person.* You hand-deliver an opt out notice to the consumer and provide at least 30 days from the date you delivered the notice.

(2) *By mail.* You mail an opt out notice to a consumer and provide at least 30 days from the date you mailed the notice.

(3) *By electronic means.* You notify the consumer electronically, and you provide at least 30 days after the date that the consumer acknowledges receipt of the electronic notice.

(c) *Continuing opportunity to opt out.* A consumer may opt out at any time.

§ 334.7 Reasonable means of opting out.

(a) *General rule.* You provide a consumer with a reasonable means of opting out if you provide a reasonably convenient method to opt out.

(b) *Reasonably convenient methods.* Examples of reasonably convenient methods include:

(1) Designating check-off boxes in a prominent position on the relevant forms included with the opt out notice;

(2) Including a reply form together with the opt out notice;

(3) Providing an electronic means to opt out, such as a form that can be electronically mailed or a process at your web site, if the consumer agrees to the electronic delivery of information; or

(4) Providing a toll-free telephone number that consumers may call to opt out.

(c) *Methods not reasonably convenient.* Examples of methods that are not reasonably convenient include:

(1) Requiring a consumer to write his or her own letter to you; or

(2) Referring in a revised notice to a check-off box that you included with a previous notice but that you do not include with the revised notice.

(d) *Requiring specific means of opting out.* You may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

§ 334.8 Delivery of opt out notices.

(a) *In general.* You must deliver an opt out notice so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

(b) *Examples of expectation of actual notice.* (1) You may reasonably expect that a consumer will receive actual notice if you:

(i) Hand-deliver a printed copy of the notice to the consumer;

(ii) Mail a printed copy of the notice to the last known mailing address of the consumer; or

(iii) For the consumer who conducts transactions electronically, post the notice on your electronic site and require the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular product or service;

(2) You may *not* reasonably expect that a consumer will receive actual notice if you:

(i) Only post a sign in your branch or office or generally publish advertisements presenting your notice; or

(ii) Send the notice via electronic mail to a consumer who does not obtain a product or service from you electronically.

(c) *Oral description insufficient.* You may not provide an opt out notice solely by orally explaining the notice, either in person or over the telephone.

(d) *Retention or accessibility.* (1) *In general.* You must provide an opt out notice so that it can be retained or obtained at a later time by the consumer in writing or, if the consumer agrees, electronically.

(2) *Examples of retention or accessibility.* You provide the notice so that it can be retained or obtained at a later time if you:

(i) Hand-deliver a printed copy of the notice to the consumer;

(ii) Mail a printed copy of the notice to the last known address of the consumer upon request of the consumer; or

(iii) Make your current notice available on a web site (or a link to another web site) for the consumer who obtains a product or service electronically and who agrees to receive the notice at the web site.

(e) *Joint notice with affiliates.* You may provide a joint notice with one or more affiliates as long as the notice identifies each person providing it and is accurate with respect to each.

(f) *Joint relationships.* (1) *In general.* Notwithstanding any other provision in this part, if two or more consumers jointly obtain a product or service from you (joint consumers), the following rules apply:

(i) You may provide a single notice to all of the joint consumers.

(ii) Any of the joint consumers has the opportunity to opt out.

(iii) You may treat an opt out direction by a joint consumer either as:

(A) Applying to all of the joint consumers; or

(B) Applying to that particular joint consumer.

(iv) You must explain in your opt out notice which of the two policies set forth in paragraph (f)(1)(iii) of this section you will follow.

(v) If you follow the policy set forth in paragraph (f)(1)(iii)(B) of this section, by treating the opt out of a joint consumer as applying to that particular joint consumer, you must also permit:

(A) A joint consumer to opt out on behalf of other joint consumers; and

(B) One or more joint consumers to notify you of their opt out directions in a single response.

(vi) You may not require *all* joint consumers to opt out before you implement any opt out direction.

(vii) If you receive an opt out by a particular joint consumer that does not apply to the others, you may disclose information about the others as long as no information is disclosed about the consumer who opted out.

(2) *Example.* If consumers A and B, who have different addresses, have a joint checking account with you and arrange for you to send statements to A's address, you may do any of the following, but you must explain in your opt out notice which opt out policy you will follow. You may send a single opt out notice to A's address and:

(i) Treat an opt out direction by A as applying to the entire account. If you do so and A opts out, you may not require B to opt out as well before implementing A's opt out direction.

(ii) Treat A's opt out direction as applying to A only. If you do so, you must also permit:

(A) A and B to opt out for each other; and

(B) A and B to notify you of their opt out directions in a single response (such as on a single form) if they choose to give separate opt out directions.

(iii) If A opts out only for A, and B does not opt out, you may disclose opt out information only about B, and not about A and B jointly.

§ 334.9 Revised opt out notice.

If you have provided a consumer with one or more opt out notices and plan to communicate opt out information to your affiliates about the consumer, other than as described in those notices, you must provide the consumer with a revised opt out notice that complies with §§ 334.4 through 334.8.

§ 334.10 Time by which opt out must be honored.

If you provide a consumer with an opt out notice and the consumer opts out, you must comply with the opt out as soon as reasonably practicable after you receive it.

§ 334.11 Duration of opt out.

An opt out remains effective until revoked by the consumer in writing or electronically, as long as the consumer continues to have a relationship with the institution. If the consumer's relationship with the institution terminates, the opt out will continue to apply to this information. However, a new notice and opportunity to opt out must be provided if the consumer establishes a new relationship with the institution.

§ 334.12 Prohibition against discrimination.

(a) *In general.* If a consumer is an applicant for credit, you must not discriminate against the consumer if the consumer opts out of the your communication of opt out information to your affiliates.

(b) *Examples of discrimination against an applicant.* You discriminate against an applicant if you:

(1) Deny the applicant credit because the applicant opts out;

(2) Vary the terms of credit adversely to the applicant such as by providing less favorable pricing terms to an applicant who opts out; or

(3) Apply more stringent credit underwriting standards to the applicant because the applicant opts out.

(c) *Regulation B.* The terms ''applicant'' and ''discriminate against'' in § 334.12 have the same meanings ascribed to them in 12 CFR part 202.

Appendix A to Part 334—Sample Notice

This appendix contains a sample notice to facilitate compliance with the notice requirements of this part. An institution may use applicable disclosures in this sample to provide notices required by this part.

Notice of Your Opportunity To Opt Out of Information Sharing With Companies in Our Corporate Family

Information We Can Share With Our Corporate Family About You—Unless You Tell Us Not to

What Information: Unless you tell us not to, [*Financial Institution*] may share with companies in our corporate family information about you including:

- Information we obtain from your application, such as [*provide illustrative examples, such as ''your income'' or ''your marital status''*];
- Information we obtain from a consumer report, such as [*provide illustrative examples, such as ''your credit score or credit history''*];
- Information we obtain to verify representations made by you, such as [*provide illustrative examples, such as ''your open lines of credit''*]; and
- Information we obtain from a person regarding its employment, credit, or other relationship with you, such as [*provide*

illustrative examples, such as ''your employment history''].

Shared With Whom: Companies in our corporate family who may receive this information are:

- Financial service providers, such as [*provide illustrative examples, such as ''mortgage bankers, broker-dealers, and insurance agents''*]; and
- Non-financial companies, such as [*provide illustrative examples, such as ''retailers, direct marketers, airlines, and publishers''*].

How To Tell Us Not To Share This Information With Our Corporate Family

If you prefer that we not share this information with companies in our corporate family, you may direct us not to share this information by doing the following [*insert one or more of the reasonable means of opting out listed below*[1]]: [*call us toll free at* {*insert toll free number*}]; or [*visit our web site at* {*insert web site address*} *and* {*provide further instructions how to use the web site option*}]; or [*e-mail us at* {*insert the e-mail address*}]; or [*fill out and tear off the bottom of this sheet and mail to the following address:* {*insert address*}]; or [*check the appropriate box on the attached form* {*attach form*} *and mail to the following address:* {*insert address*}].

Note: Your direction in this paragraph covers certain information about you that we might otherwise share with our corporate family. We may share other information about you with our corporate family as permitted by law.

By order of the Board of Directors, Federal Deposit Insurance Corporation.

Dated at Washington, D.C., this 25th day of September, 2000.

Robert E. Feldman,

Executive Secretary.

Office of Thrift Supervision

12 CFR Chapter V

Authority and Issuance

For the reasons set out in the joint preamble, OTS proposes to amend chapter V of title 12 of the Code of Federal Regulations by adding a new part 571 to read as follows:

PART 571—FAIR CREDIT REPORTING

Sec.

Authority: 12 U.S.C. 1462a, 1463, 1464, 1467a, 1828; 15 U.S.C. 1681s.

§ 571.1 Purpose and scope.

(a) *Purpose.* This part governs the collection, communication, and use, by the institutions listed in paragraph (b)(2) of this section, of certain information bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living.

(b) *Scope.* (1) *Information covered.* This part applies to information that is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing a consumer's eligibility for credit, insurance, employment, or any other purpose authorized under section 604 of the Fair Credit Reporting Act (15 U.S.C. 1681b).

(2) *Institutions covered.* This part applies to savings associations whose deposits are insured by the Federal Deposit Insurance Corporation.

(3) *Relation to other laws.* Nothing in this part modifies, limits, or supersedes the standards governing the privacy of individually identifiable health information promulgated by the Secretary of Health and Human Services under the authority of sections 262 and 264 of the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1320d–1320d–8).

§ 571.2 Examples.

The examples used in this part and the model form in appendix A to this part are not exclusive. Compliance with an example or use of the sample notice, to the extent applicable, constitutes compliance with this part.

§ 571.3 Definitions.

As used in this part, unless the context requires otherwise:

(a) *Act* means the Fair Credit Reporting Act (15 U.S.C. 1681 *et seq.*).

(b) *Affiliate.* (1) *In general.* The term means any company that is related or affiliated by common ownership, or affiliated by corporate control or common corporate control, with another company.

(2) *Related or affiliated by common ownership or affiliated by corporate control or common corporate control.* This means controlling, controlled by, or under common control with, another company.

(c) *Clear and conspicuous.* (1) *In general.* The term means that a notice is reasonably understandable and is designed to call attention to the nature and significance of the information it contains.

(2) *Examples.* (i) *Reasonably understandable.* You make your notice reasonably understandable if you:

(A) Present the information in the notice in clear and concise sentences, paragraphs, and sections;

(B) Use short explanatory sentences or bullet lists whenever possible;

(C) Use definite, concrete, everyday words and active voice whenever possible;

(D) Avoid multiple negatives;

(E) Avoid legal and highly technical business terminology whenever possible; and

(F) Avoid explanations that are imprecise and are readily subject to different interpretations.

(ii) *Designed to call attention.* You design your notice to call attention to the nature and significance of the information it contains if you:

(A) Use a plain-language heading to call attention to the notice;

(B) Use a typeface and type size that are easy to read;

(C) Provide wide margins and ample line spacing;

(D) Use boldface or italics for key words; and

(E) In a form that combines your notice with other information, use distinctive type sizes, styles, and graphic devices, such as shading or sidebars.

(iii) *Notice on a web page.* If you provide a notice on a web page, you design your notice to call attention to the nature and significance of the information it contains if:

(A) You place either the notice, or a link that connects directly to the notice and that is labeled appropriately to convey the importance, nature, and relevance of the notice, on a page that consumers access often, such as a page on which transactions are conducted;

(B) You use text or visual cues to encourage scrolling down the page if necessary to view the entire notice; and

(C) You ensure that other elements on the web page (such as text, graphics, links, or sound) do not detract attention from the notice.

(d) *Communication* includes written, oral, and electronic communication; provided that the term includes electronic communication to a consumer only if the consumer agrees to receive the communication electronically.

(e) *Company* means any corporation, limited liability company, business

[1] If the financial institution is using its web site or an e-mail address as the *only* method by which a consumer may opt out, the consumer must agree to the electronic delivery of information.

trust, general or limited partnership, association, or similar organization.

(f) *Consumer* means an individual.

(g) *Consumer report.* (1) *In general.* The term means any written, oral, or other communication of any information by a consumer reporting agency bearing on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living which is used or expected to be used or collected in whole or in part for the purpose of serving as a factor in establishing the consumer's eligibility for:

(i) Credit or insurance to be used primarily for personal, family, or household purposes;

(ii) Employment purposes; or

(iii) Any other purpose authorized under section 604 of the Act (15 U.S.C. 1681b).

(2) *Exclusions.* The term does not include:

(i) Any report containing information solely as to transactions or experiences between the consumer and the person making the report;

(ii) Any communication of that information among affiliates;

(iii) Any communication among affiliates of opt out information if the conditions in §§ 571.4 through 571.9 are satisfied;

(iv) Any authorization or approval of a specific extension of credit directly or indirectly by the issuer of a credit card or similar device;

(v) Any report in which a person who has been requested by a third party to make a specific extension of credit directly or indirectly to a consumer conveys his or her decision with respect to such request, if the third party advises the consumer of the name and address of the person to whom the request was made, and the person makes the disclosures to the consumer required under section 615 of the Act (15 U.S.C. 1681m); or

(vi) A communication described in section 603(o) of the Act (15 U.S.C. 1681a(o)).

(h) *Consumer reporting agency* means any person which, for monetary fees, dues or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports.

(i) *Control* of a company means:

(1) Ownership, control, or power to vote 25 percent or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one or more other persons;

(2) Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of the company; or

(3) The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as OTS determines.

(j) *Opt out* means a direction by a consumer that you not communicate opt out information about the consumer to one or more of your affiliates.

(k) *Opt out information* means information that:

(1) Bears on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living;

(2) Is used or expected to be used or collected in whole or in part to serve as a factor in establishing the consumer's eligibility for credit or another purpose listed in section 604 of the Act (15 U.S.C. 1681b); and

(3) Is not a report containing information solely as to transactions or experiences between the consumer and the person reporting or communicating the information.

(l) *Person* means any individual, partnership, corporation, trust, estate, cooperative, association, government or governmental subdivision or agency, or other entity.

(m) *You* means savings associations whose deposits are insured by the Federal Deposit Insurance Corporation.

§ 571.4 Communication of opt out information to affiliates.

Your communication to your affiliates of opt out information about a consumer is not a consumer report if:

(a) You have provided the consumer with an opt out notice;

(b) You have given the consumer a reasonable opportunity and means, before you communicate the information to your affiliates, to opt out; and

(c) The consumer has not opted out.

§ 571.5 Content of opt out notice.

(a) *In general.* An opt out notice must be clear and conspicuous, and must accurately explain:

(1) The categories of opt out information about the consumer that you communicate to your affiliates;

(2) The categories of affiliates to which you communicate the information;

(3) The consumer's ability to opt out; and

(4) A reasonable means for the consumer to opt out.

(b) *Future communications.* Your notice may describe:

(1) Categories of opt out information about the consumer that you reserve the right to communicate to your affiliates in the future but do not currently communicate; and

(2) Categories of affiliates to which you reserve the right in the future to communicate, but to which you do not currently communicate, opt out information about the consumer.

(c) *Partial opt out.* You may allow a consumer to select certain opt out information or certain affiliates, with respect to which the consumer wishes to opt out.

(d) *Examples of categories of information that you communicate.* (1) You satisfy the requirement to categorize the opt out information that you communicate if you list the categories in paragraph (d)(2) of this section, as applicable, and a few examples to illustrate the types of information in each category. These examples may include those in paragraph (d)(3) of this section, if applicable.

(2) Categories of opt out information may include information:

(i) From a consumer's application;

(ii) From a consumer credit report;

(iii) Obtained by verifying representations made by a consumer; or

(iv) Provided by another person regarding its employment, credit, or other relationship with a consumer.

(3) Examples of information within a category listed in paragraph (d)(2) of this section include a consumer's:

(i) Income;

(ii) Credit score or credit history with others;

(iii) Open lines of credit with others;

(iv) Employment history with others;

(v) Marital status; and

(vi) Medical history.

(4) You do not satisfy the requirement if you communicate or reserve the right to communicate individually identifiable health information (as described in section 1171(6)(B) of the Social Security Act (42 U.S.C. 1320d(6)(B)) but omit illustrative examples of this information.

(e) *Examples of categories of affiliates.* (1) You satisfy the requirement to categorize the affiliates to which you communicate opt out information if you list the categories in paragraph (e)(2) of this section, as applicable, and a few examples to illustrate the types of affiliates in each category.

(2) Categories of affiliates may include:

(i) Financial service providers; and

(ii) Non-financial companies.

(f) *Sample notice.* A sample notice is included in appendix A to this part.

§ 571.6 Reasonable opportunity to opt out.

(a) *In general.* You provide a reasonable opportunity to opt out if you provide a reasonable period of time following the delivery of the opt out notice for the consumer to opt out.

(b) *Examples of reasonable period of time:* (1) *In person.* You hand-deliver an opt out notice to the consumer and provide at least 30 days from the date you delivered the notice.

(2) *By mail.* You mail an opt out notice to a consumer and provide at least 30 days from the date you mailed the notice.

(3) *By electronic means.* You notify the consumer electronically, and you provide at least 30 days after the date that the consumer acknowledges receipt of the electronic notice.

(c) *Continuing opportunity to opt out.* A consumer may opt out at any time.

§ 571.7 Reasonable means of opting out.

(a) *General rule.* You provide a consumer with a reasonable means of opting out if you provide a reasonably convenient method to opt out.

(b) *Reasonably convenient methods.* Examples of reasonably convenient methods include:

(1) Designating check-off boxes in a prominent position on the relevant forms included with the opt out notice;

(2) Including a reply form together with the opt out notice;

(3) Providing an electronic means to opt out, such as a form that can be electronically mailed or a process at your web site, if the consumer agrees to the electronic delivery of information; or

(4) Providing a toll-free telephone number that consumers may call to opt out.

(c) *Methods that are not reasonably convenient.* Examples of methods that are not reasonably convenient include:

(1) Requiring a consumer to write his or her own letter to you; or

(2) Referring in a revised notice to a check-off box that you included with a previous notice but that you do not include with the revised notice.

(d) *Requiring specific means of opting out.* You may require each consumer to opt out through a specific means, as long as that means is reasonable for that consumer.

§ 571.8 Delivery of opt out notice.

(a) *In general.* You must deliver an opt out notice so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically.

(b) *Examples of expectation of actual notice.* (1) You may reasonably expect that a consumer will receive actual notice if you:

(i) Hand-deliver a printed copy of the notice to the consumer;

(ii) Mail a printed copy of the notice to the last known mailing address of the consumer; or

(iii) For the consumer who conducts transactions electronically, post the notice on your electronic site and require the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular product or service;

(iv) You may *not* reasonably expect that a consumer will receive actual notice if you:

(A) Only post a sign in your branch or office or generally publish advertisements presenting your notice; or

(B) Send the notice via electronic mail to a consumer who does not obtain a product or service from you electronically.

(c) *Oral description insufficient.* You may not provide an opt out notice solely by orally explaining the notice, either in person or over the telephone.

(d) *Retention or accessibility.* (1) *In general.* You must provide an opt out notice so that it can be retained or obtained at a later time by the consumer in writing or, if the consumer agrees, electronically.

(2) *Examples of retention or accessibility.* You provide the notice so that it can be retained or obtained at a later time if you:

(i) Hand-deliver a printed copy of the notice to the consumer;

(ii) Mail a printed copy of the notice to the last known address of the consumer upon request of the consumer; or

(iii) Make your current notice available on a web site (or a link to another web site) for the consumer who obtains a product or service electronically and who agrees to receive the notice at the web site.

(e) *Joint notice with affiliates.* You may provide a joint notice with one or more affiliates as long as the notice identifies each person providing it and is accurate with respect to each.

(f) *Joint relationships.* (1) *In general.* Notwithstanding any other provision in this part, if two or more consumers jointly obtain a product or service from you (joint consumers), the following rules apply:

(i) You may provide a single notice to all of the joint consumers.

(ii) Any of the joint consumers has the opportunity to opt out.

(iii) You may treat an opt out direction by a joint consumer either as:

(A) Applying to all of the joint consumers; or

(B) Applying to that particular joint consumer.

(iv) You must explain in your opt out notice which of the two policies set forth in paragraph (f)(1)(iii) of this section you will follow.

(v) If you follow the policy set forth in paragraph (f)(1)(iii)(B) of this section, by treating the opt out of a joint consumer as applying to that particular joint consumer, you must also permit:

(A) A joint consumer to opt out on behalf of other joint consumers; and

(B) One or more joint consumers to notify you of their opt out directions in a single response.

(vi) You may not require *all* joint consumers to opt out before you implement any opt out direction.

(vii) If you receive an opt out by a particular joint consumer that does not apply to the others, you may disclose information about the others as long as no information is disclosed about the consumer who opted out.

(2) *Example.* If consumers A and B, who have different addresses, have a joint checking account with you and arrange for you to send statements to A's address, you may do any of the following, but you must explain in your opt out notice which opt out policy you will follow. You may send a single opt out notice to A's address and:

(i) Treat an opt out direction by A as applying to the entire account. If you do so and A opts out, you may not require B to opt out as well before implementing A's opt out direction.

(ii) Treat A's opt out direction as applying to A only. If you do so, you must also permit:

(A) A and B to opt out for each other; and

(B) A and B to notify you of their opt out directions in a single response (such as on a single form) if they choose to give separate opt out directions.

(iii) If A opts out only for A, and B does not opt out, you may disclose opt out information only about B, and not about A and B jointly.

§ 571.9 Revised opt out notice.

If you have provided a consumer with one or more opt out notices and plan to communicate opt out information to your affiliates about the consumer, other than as described in those notices, you must provide the consumer with a revised opt out notice that complies with §§ 571.4 through 571.8.

§ 571.10 Time by which opt out must be honored.

If you provide a consumer with an opt out notice and the consumer opts out,

you must comply with the opt out as soon as reasonably practicable after you receive it.

§ 571.11 Duration of opt out.

An opt out remains effective until revoked by the consumer in writing or electronically, as long as the consumer continues to have a relationship with the institution. If the consumer's relationship with the institution terminates, the opt out will continue to apply to this information. However, a new notice and opportunity to opt out must be provided if the consumer establishes a new relationship with the institution.

§ 571.12 Prohibition against discrimination.

(a) *In general.* You must not discriminate against a consumer who is an applicant for credit because the consumer opts out of your communication of opt out information to your affiliates.

(b) *Examples of discrimination against an applicant.* You discriminate against an applicant if you:

(1) Deny the applicant credit because the applicant opts out;

(2) Vary the terms of credit adversely to the applicant such as by providing less favorable pricing terms to an applicant who opts out; or

(3) Apply more stringent credit underwriting standards to the applicant because the applicant opts out.

(c) *Regulation B.* The terms ''applicant'' and ''discriminate against'' in this section have the same meanings ascribed to them in 12 CFR part 202.

Appendix A to Part 571—Sample Notice

This appendix contains a sample notice to facilitate compliance with the notice requirements of this part. An institution may use applicable disclosures in this sample to provide notices required by this part.

Notice of Your Opportunity to Opt Out of Information Sharing With Companies in Our Corporate Family

Information We Can Share With Our Corporate Family About You—Unless You Tell Us Not to

What Information: Unless you tell us not to, [*Financial Institution*] may share with companies in our corporate family information about you including:

- Information we obtain from your application, such as [*provide illustrative examples, such as ''your income'' or ''your marital status''*];
- Information we obtain from a consumer report, such as [*provide illustrative examples, such as ''your credit score or credit history''*];
- Information we obtain to verify representations made by you, such as [*provide illustrative examples, such as ''your open lines of credit''*]; and
- Information we obtain from a person regarding its employment, credit, or other relationship with you, such as [*provide illustrative examples, such as ''your employment history''*].

Shared With Whom: Companies in our corporate family who may receive this information are:

- Financial service providers, such as [*provide illustrative examples, such as ''mortgage bankers, broker-dealers, and insurance agents''*]; and
- Non-financial companies, such as [*provide illustrative examples, such as ''retailers, direct marketers, airlines, and publishers''*].

How To Tell Us Not To Share This Information With Our Corporate Family

If you prefer that we not share this information with companies in our corporate family, you may direct us not to share this information by doing the following [*insert one or more of the reasonable means of opting out listed below*[1]]: [*call us toll free at* {*insert toll free number*}]; or [*visit our web site at* {*insert web site address*} *and* {*provide further instructions how to use the web site option*}]; or [*e-mail us at* {*insert the e-mail address*}]; or [*fill out and tear off the bottom of this sheet and mail to the following address:* {*insert address*}]; or [*check the appropriate box on the attached form* {*attach form*} *and mail to the following address:* {*insert address*}].

Note: Your direction in this paragraph covers certain information about you that we might otherwise share with our corporate family. We may share other information about you with our corporate family as permitted by law.

Dated: September 29, 2000.

By the Office of Thrift Supervision.

Ellen Seidman,

Director.

[FR Doc. 00–26601 Filed 10–19–00; 8:45 am]

BILLING CODE 4810–33–P; 6210–01P; 6714–01–P; 6720–01–P

[1] If the financial institution is using its web site or an e-mail address as the only method by which a consumer may opt out, the consumer must agree to the electronic delivery of information.

Federal Register

Friday,
October 20, 2000

Part III

Department of the Interior

Bureau of Indian Affairs

25 CFR Part 20

Financial Assistance and Social Services Programs; Final Rule

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

25 CFR Part 20

RIN 1076–AD95

Financial Assistance and Social Services Programs

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Final rule.

SUMMARY: The Bureau of Indian Affairs (Bureau) is amending the existing Financial Assistance and Social Services Program regulations to incorporate rules for Adult Care Assistance, Burial Assistance, Child Assistance, Disaster Assistance, Emergency Assistance, General Assistance, Services to Children, Elderly and Families, Tribal Welfare Reform, and Tribal Work Experience Program. All other sections are revised and renumbered to conform to existing programmatic and budgetary statutes and conditions. Also, these regulations have been rewritten in Plain English as required by Executive Order 12866. In keeping with the intent of Plain English, we added more subparts for easier use in reference.

EFFECTIVE DATE: These regulations take effect on November 20, 2000.

FOR FURTHER INFORMATION CONTACT: Larry Blair, Chief, Division of Social Services, Department of the Interior, Bureau of Indian Affairs, 1849 C Street, NW., MS–4660–MIB, Washington, DC 20240 at telephone (202) 208–2721.

SUPPLEMENTARY INFORMATION: We last revised the financial assistance and social services regulations in 25 CFR part 20 in 1985. Since that time, a number of important changes have occurred that are not reflected in the existing regulations. These actions present an opportunity to review the current priorities and policies contained in the regulations and propose changes that conform to existing conditions. We published a proposed rule in the **Federal Register** on May 6, 1999 (64 FR 24296). We considered the following factors in proposing changes in the current regulations:

- The primary purpose of the amendments is to provide clear, concise regulations that will improve program implementation;
- Congress has enacted a cap on the level of financial assistance funding;
- Existing financial assistance and social services regulations do not provide for the development of tribal welfare reform/redesign plans in accordance with tribal desires and existing law;
- Given fluctuations in financial assistance caseloads and emergencies, it has been difficult to plan and refine the existing service delivery framework;
- The Department of Health and Human Services (HHS) has made a policy decision to allow Temporary Assistance for Needy Families (TANF) payments to be included as one of the grants under Public Law 102–477;
- Public Law 104–193 Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) reduced funding level authorizations and required General Assistance (GA) payments to be equal to the level of state TANF payments; and
- The Indian Child Protection and Family Violence Prevention Act and the Adoption and Safe Families Act have established new standards in child welfare. The regulations need revision to incorporate and consolidate additional child protection and permanency planning requirements.

The Bureau continues to support the policy that Indian people are eligible and should receive financial assistance and social services from local state, county, and city resources on the same basis as non-Indians. For the purposes of simplifying the locations where we will provide the financial assistance and social services program, we use the term ''service area'' in these regulations and tell you how to get a service area if one does not yet exist.

Summary of the Rule

The rule provides tribes the option of operating their own general assistance program through a redesign plan which incorporates welfare reform or utilizing the Bureau's revised regulations on general assistance as a program standard for operation. In addition, the rule provides clear concise guidance for operation of other program components including Adult Care Assistance, Burial Assistance, Child Assistance, Disaster Assistance, Emergency Assistance, Services to Children, Elderly and Families and Tribal Work Experience Program. These Bureau programs do not replace any existing services, but in many instances interface with existing federal, state, county and tribal programs. Many of these governmental public assistance programs have been modified and revised as a result of PRWORA and the Bureau has the task of distinguishing and describing its programs to prevent duplication of services. Much tribal input was received both during the comment period and in prior meetings with tribal leaders and program officials.

The final rule reflects this input and provides tribes with choices as to how they might proceed with their own versions of welfare reform. In addition, the rule clarifies specific eligibility criteria for applicants and describes where services may be provided for eligible applicants. The program will continue to be based upon need and the annual distribution of funds is based upon the number of cases and lack of other resources to meet need.

Review of Public Comments

Appeal means a written request for correction of an action or decision of a specific program decision by a Bureau official (§ 20.700) or a tribal official (§ 20.705).

No comments were received on this definition.

Applicant means an Indian individual or person by or on whose behalf an application for financial assistance and/or social services has been made under this part.

One commenter recommended an applicant be an ''enrolled Indian.''

Response: This recommendation was not adopted. The definition of ''Indian'' states that an Indian is a member of a federally recognized tribe that is recognized by the Bureau of Indian Affairs to receive service. The definition was not changed because the term ''Indian'' indicates the applicant is a member of a tribe that is recognized by the Federal Government to receive service.

Application means the written or oral process through which a request is made for financial assistance or social services.

One commenter stated the requirement of a written application was in conflict with § 20.600(a) which states an application may be written or oral. This section was renumbered as § 20.601 in the final rule.

Response: This recommendation was adopted. The language was changed to state that an application can be oral or written.

Area Director means the Bureau official in charge of an Area Office.

One commenter stated that Area Director had changed to Regional Director.

Response: This recommendation was adopted and the definition was changed to Regional Director.

Assistant Secretary means the Assistant Secretary—Indian Affairs.

No comments were received on this definition.

Authorized representative means a parent or other caretaker relative, conservator, legal guardian, foster parent, attorney, paralegal acting under

the supervision of an attorney, friend or other spokesperson duly authorized and acting on behalf or representing the applicant or recipient.

No comments were received on this definition.

Bureau means the Bureau of Indian Affairs of the United States Department of the Interior.

No comments were received on this definition.

Bureau Standard of Assistance means payment standards established by the Assistant Secretary—Indian Affairs for Burial, Disaster, Emergency, and Adoption and Guardianship subsidy. In accordance with Pub. L. 104–193, the Bureau Standard of Assistance for General Assistance is the state rate for TANF in the state where the applicant lives. Child Assistance and Foster Care rates are in accordance with Title IV of the Social Security Act (49 Stat. 620) and Pub. L. 104–193.

Some commenters raised the following questions: (1) What authority under Pub. L. 104–193 is used as the basis for the Bureau Standard of Assistance for General Assistance and Foster Care? (2) Why is the Bureau required to use Foster Care rates in accordance with Title IV of the Social Security Act? (3) What Bureau Standard of Assistance is used for multi-state tribes? (4) Why shouldn't the Bureau Standard of Assistance be an amount equal to the larger of either the state or tribal TANF amount? (5) Why should the Bureau set their own Standard of Assistance? (6) What is the Bureau's definition for financial assistance?

Response: These recommendations were partially adopted. Pub. L. 104–193 does require the Bureau General Assistance payment levels be tied to the state TANF rate including ratable reduction. Child Assistance was deleted from the reference to rates as Foster Care rates should have been the only service referenced. By tradition, the Bureau has used state Foster Care rates for Indian children requiring care. Based on the Bureau's experience, this is the most equitable payment level for Foster Care, and the Bureau continues to use the state established Foster Care rates for this purpose. The Bureau acknowledges the need to explain service delivery where a reservation extends into more than one state and added language to that effect. There may be instances when the General Assistance rate would be a larger amount than the state TANF rate if the tribe has chosen to redesign their General Assistance program. The Bureau Standard of Assistance for Adult Care Assistance and TWEP will be added to the definition because these services were added under financial assistance. Additionally, adult and adult care will be added as definitions. The Bureau has the discretion to establish payment standards for unmet needs that it does not routinely provide, such as Emergency Assistance, Adoption or Guardianship subsidy; therefore, these rates will be established by the Assistant Secretary. The Burial Assistance payment level will also remain an indigent Burial Assistance rate, and the rate will continue to be established by the Assistant Secretary. The Bureau has limited experience in dealing with natural disasters, but has coordinated assistance with Red Cross and Federal Emergency Management Assistance (FEMA) when disaster occurs on Indian reservations. The Assistant Secretary will establish payment rates for allowable expense(s) when disaster strikes an Indian reservation. The payment levels established by the Assistant Secretary will be reviewed and updated periodically. The Bureau will add a definition for financial assistance to add clarity.

Burial Assistance means a financial assistance payment made on behalf of an indigent eligible Indian person who meets the eligibility criteria to provide minimum burial expenses according to the Bureau payment standards established by the Assistant Secretary—Indian Affairs.

One commenter requested deletion of ''indigent.'' Other commenters recommended the tribe establish their own Burial Assistance payment level. One commenter recommended judgement funds not be counted as income toward the Burial Assistance payment.

Response: These recommendations were not adopted. The Bureau's Burial Assistance has always been used for eligible Indians who are ''indigent,'' and who have no resources available to be used for Burial Assistance. The Bureau will continue to make this assistance for ''indigent'' Indians, only, and will retain the discretion to establish an indigent burial rate. Judgement funds that are exempted by federal law(s) are not counted as income by the Bureau for the purpose of federal assistance.

Case means all individuals in the household.

Some commenters stated that the definition for case was too simplified and needed to be further defined.

Response: The recommendations were adopted and the definition was changed.

Case management means the activity of a social services worker in assessing client and family problem(s), case planning, coordinating and linking services for clients, monitoring service provisions and client progress, advocacy, tracking and evaluating services provided, such as evaluation of child's treatment being concurrent with parent's treatment, and provision of aftercare service. Activities may also include resource development and providing other direct services such as accountability of funds, data collection, reporting requirements, and documenting activities in the case file.

Some commenters stated that social services staff cannot perform this function without additional resources, and one commenter stated that this is a practice issue, and should not be part of the Bureau's definitions.

Response: These recommendations were not adopted. The need for additional resources to accomplish case management was not addressed as this is not a regulatory issue. The Bureau disagreed with the comment that this definition is primarily a practice issue. The Bureau views this definition as a quality control method used by a social services worker and his/her supervisor to track cases to ensure appropriate services are provided. In addition, a review system is established to determine client progress and link resources that may be needed to institute change. This definition will be of assistance to case managers for maintaining data collection and/or information required by federal laws and for documenting the need for welfare assistance funds.

Case plan means a signed written plan with time limited goals which is developed and signed by the service recipient and social services worker. The plan will include documentation of referral and ineligibility for other services. The plan must incorporate the steps needed to assist individuals and families to resolve social, economic, psychological, interpersonal, and/or other problems, to achieve self-sufficiency and independence. All plans for children in Foster Care must include a time specific goal of the return of the child to the home or initiation of a guardianship/adoption.

Some commenters requested explanation as to when permanency plans should be included in case plans. One wanted a clarification as to how the case plan differed from the Individual Self-sufficiency Plan (ISP).

Response: These recommendations were partially adopted. Permanency plans should be developed and included in case plans for all out of home placements including residential care. The definition of ''Permanency Plan'' includes language that allows tribes to establish a permanency plan for children that are consistent with their

tribal codes. ISP is specific action(s) which a General Assistance recipient must accomplish in order to become employed and retain employment. The definition for the ISP states that this plan will be incorporated into the Case Plan, or in essence, the ISP is only one part of the Case Plan.

Child means an Indian person under the age of 18 or such other age of majority as may be established for purposes of parental support by tribal or state law (if any) applicable to the person at his or her residence, except that no person who has been emancipated by marriage will be deemed a child.

One commenter recommended that children should be exempted from employment as indicated in § 20.315.

Response: This recommendation was not adopted. Section 20.315 states that the employment policy does not apply to a full time student under the age of 19. The definition was revised to provide clarity.

Child Assistance means financial assistance provided on behalf of an Indian child, or an Indian under age 18, who is not eligible for any other state or federal assistance as documented in the case file and who requires placement in a foster home or specialized non-medical care facility, in accordance with standards of payments established by the state in which they reside pursuant to the foster care program under Title IV of the Social Security Act (49 Stat. 620), or has special needs as specified in § 20.100.

Some commenters requested that the term ''Child Welfare Assistance'' be retained, and some stated the Bureau should retain the current Child Welfare Assistance language that allows assistance to be provided to Indian children until they reach age 22. Some commenters stated that this definition should include payments for adoption subsidies, guardianship subsidies, homemaker, day care, and other out of home placements that use child assistance funds. One commenter stated that the change in terminology emphasizes service to children and moves away from the idea that this is not ''welfare.''

Response: These recommendations were partially adopted. The Bureau provides child assistance to eligible Indian children who are under age 18, because this is the age recognized nationally when a child is considered to be an adult. The Bureau retained the new terminology ''Child Assistance'' because the emphasis of this program component is upon the well-being of children within the family unit. When the family encounters difficulties, a temporary out-of-home placement or respite assistance may be necessary to preserve the family. The cost associated with guardianship subsidy and adoption subsidy is addressed under the Bureau Standard of Assistance, and the expenses related to homemaker, day care and respite service are considered ''Special Needs'' as specified in § 20.100. The definition was revised to include all the types of services that are provided under child assistance.

Designated representative means an official of the Bureau who is designated by a Superintendent to hold a hearing as prescribed in §§ 20.700 through 20.705 and who has had no prior involvement in the proposed decision under § 20.602 and whose hearing decision under §§ 20.700 through 20.705 will have the same force and effect as if rendered by the Superintendent.

Some commenters requested the addition of a ''designated tribal official'' for tribal contracts or compacts.

Response: This recommendation was not adopted. This recommendation was not added because tribes have authority to develop their own policies and procedures to handle appeals at § 20.705.

Disaster means a situation where a tribal community is adversely affected by a natural disaster or other forces which pose a threat to life, safety, or health as specified in §§ 20.327 and 20.328.

One commenter recommended the addition of ''man made'' disasters, and another recommended the addition of a tribal community disaster definition which would describe economic failures in the fishing and agriculture industries. Another commenter stated that tribal communities should declare their own disasters.

Response: These recommendations were not adopted. The Bureau retained the disaster assistance definition, because there is no limit as to how man made disasters may be interpreted. As indicated in other areas of this regulation, the Bureau's financial resources are residual. The primary responsibility for service delivery for natural disasters is the Red Cross and the Federal Emergency Management Agency (FEMA), and state agencies and tribes should contact them to request disaster assistance. In the event assistance and/or services cannot be obtained from other resources, the tribe can make a request to the Bureau for disaster assistance. The process to be used by a tribe to declare a disaster is addressed at § 20.328. The recommendation to include economic disasters was not accepted because general assistance, and other state assistance such as TANF are available to meet economic hardships of individuals needing financial assistance.

Emergency means a situation where an individual or family's home and personal possessions are either destroyed or damaged through forces beyond their control as specified in § 20.329.

Some commenters stated that Emergency Assistance is too narrowly defined and should include conditions for emergency food, transportation and loss of heat in a winter storm.

Response: These recommendations were not adopted. The Bureau's General Assistance and other assistance (TANF and Food Stamps) should be used to meet food needs, and transportation needs. If the winter storm is extensive in nature and poses a threat to life, safety or health, then such a request for assistance should be handled as a disaster as specified in §§ 20.327 and 20.328.

Employable means an eligible Indian person who is physically and mentally able to obtain employment, and who is not exempt from seeking employment in accordance with the criteria specified in § 20.315.

One commenter stated that in addition to being physically and mentally able to obtain employment, the person should have a high school diploma or General Equivalency Diploma (GED) to be considered employable.

Response: This recommendation was not adopted. This recommendation is not accepted because an individual is not required to have a high school diploma or GED to be considered employable. The purpose of this regulation is to work with general assistance recipients and help them to become employed. It is preferable that individuals have a high school diploma or GED, but this is not a requirement to be considered employable.

Essential needs means shelter, food, clothing and utilities, as included in the standard of assistance in the state where the eligible applicant lives.

One commenter recommended that tribes establish their own definition for essential needs.

Response: This recommendation was not adopted. Nationwide, the need determination for any state standard of assistance at a minimum includes food, shelter, clothing and utilities; therefore, the Bureau will retain the definition of essential needs.

Extended family means persons related by blood, marriage or as defined by Indian custom.

Some commenters requested that ''tradition'' replace the word ''custom,'' and one commenter wanted language to insure that where tribal codes for family existed they would take precedence. Some commenters requested the inclusion of ''Kinship care'' into this definition. One commenter recommended revising the definition as follows: Extended family will be defined by tribal law or custom, or in the absence of such law or custom, means a grandparent, grandchild, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent or stepchild.

Response: These recommendations were partially adopted. The inclusion of kinship care was not accepted, because kinship care is related to placement of children with relatives and/or the placement practice of a social service agency; however, the Bureau will include a reference to tribal law to ensure that existing tribal laws take precedence.

Family assessment means a social services evaluation of a family's abilities and resources to provide the necessary care and supervision for the children, and individuals within the family's current living situation and is included in the case file.

Some commenters stated that the definition is limited and the language ''is included in the file'' is not a definition. Some commenters recommended the addition of clinical or social service evaluation to this definition to clarify what should be included in the assessment.

Response: These recommendations were partially adopted. The definition of family assessment was revised to include social services assessment. In addition, § 20.404 was added to specify the minimum requirements needed in a social services assessment.

Foster Care Services means those social services provided when an Indian child lives away from the family home.

Some commenters stated that the definition is vague and too general.

Response: This recommendation was adopted. The definitions of foster care services was revised to provide clarity and examples were provided.

General Assistance means a secondary or residual source of financial assistance payments to eligible Indian individuals for essential needs as provided and pursuant to §§ 20.300 through 20.319.

One commenter stated that the regulation must specify that general assistance is ''temporary,'' and another stated that general assistance should be provided only to ''enrolled eligible Indians'' of a federally recognized tribe. Another commenter suggested simplifying the definition.

Response: These recommendations were partially adopted. General Assistance is temporary assistance and eligibility is reviewed periodically. There is a process for review of recipient eligibility every 3 months for employables and every 6 months for unemployables. The language ''eligible Indian individuals'' in the definition in § 20.100 indicates that enrolled Indians of a federally recognized tribe may apply for general assistance. The reference to secondary or residual source was deleted.

Head of household means the persons in the household with whom the household members live and who makes application for benefits.

Some commenters stated that this definition needs to be redefined and clarified. One commenter stated that the definition should include language stating that one person can be the head of household, rather than a number of persons.

Response: These recommendations were adopted. The definition was changed to clarify that one person was the head of household and financially responsible for the other members.

Homemaker services means those non-medical services purchased or contracted for individuals who are not eligible for any other programs such as Medicaid/Medicare as documented in the case file. These individuals must be under the supervision of a social services agency which is administered by a person trained in such skills as child care and home management to prevent out-of-home placement.

Some commenters recommended the deletion of the second sentence in the definition and deletion of ''Medicaid/Medicare,'' because this is a ''policy'' statement rather than a definition. One commenter stated that the definition is vague and needs clarity and should include homemaker services for adults and children and a reference should be made to residential care.

Response: These recommendations were partially adopted. References to Medicaid/Medicare were deleted as they were unnecessary and the addition of adults and children was not accepted as the use of individuals implies both adults and children as beneficiaries of this service. Residential Care was added and referenced and the definition was rewritten.

Household means persons living together who may or may not be related to the ''head of household.''

Some commenters requested that the definition be revised taking into consideration the existence of multiple households and the practice of accepting roommates when determining payment amounts. Another commenter stated that there is a need for the language ''who function as members of a family unit.''

Response: These recommendations were not adopted. The process for calculation of payments in a multiple household is addressed at § 20.313. The recommendation to include, ''who function as members of a family unit'' is not necessary because there is a legal obligation to support family members. There are circumstances when individuals who are not related to the head of household may be considered as additional persons in a general assistance household.

Indian means any person who is a member of any of those tribes listed in the **Federal Register**, pursuant to 25 CFR part 83, as recognized by and receiving services from the Bureau of Indian Affairs.

Some commenters stated that this definition should specify enrolled member or be simplified.

Response: This recommendation was partially adopted. Membership is determined by tribes, and eligible members can receive services. The definition was revised and simplified.

Indian court means Indian tribal court or court of Indian offenses.

Some commenters recommended the deletion of ''Court of Indian Offenses.''

Response: This recommendation was not adopted. Court of Indian Offenses was not deleted because this is the official name of a court operated by the United States Government.

Indian tribe means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community that the Secretary of the Interior acknowledges to exist as an Indian tribe pursuant to Public Law 103–454, 108 Stat. 4791.

Some commenters requested retention of the current definition which states Alaska Native Village or regional or village corporation and asked that the definition be simplified.

Response: This recommendation was adopted. The definition was revised and simplified.

Individual Self-Sufficiency Plan (ISP) means a plan designed to meet the goal of employment through specific action steps and is incorporated within the case plan. The plan is jointly developed and signed by the general assistance recipient and social services worker.

Some commenters stated that they objected to the addition of an ISP because this requirement will be burdensome. One commenter stated the self-sufficiency may be in conflict with

the state's self-sufficiency plan if the applicant is coming to general assistance from a TANF program.

Response: These recommendations were not adopted. We acknowledge the development and implementation of an ISP may be burdensome, but it is good social work practice to have ISP's for employable general assistance recipients. Both the general assistance and TANF programs' expectation is to attain employment in order to become self-sufficient, and although the specific action steps to be taken to obtain employment for general assistance may not be the same as TANF, the ultimate goal is the same.

Need means the deficit after consideration of income and other resources necessary to meet the cost of essential need items and special need items as defined by the Bureau standard of assistance for the state in which the applicant or recipient resides.

No comments were received on this definition.

Non-medical care means financial assistance for room and board services for individuals in non-medical care facilities. These individuals must not be eligible for SSI or any other federal or state programs and this information must be documented in the case file.

Some commenters asked if ''non-medical service'' is the same as ''non-medical care'' as the definition was confusing and should be revised or deleted. One commenter requested changing the words ''must not'' to ''should not.'' Another commenter requested clarification in terms of what was considered as residential care services.

Response: This recommendation was adopted. This definition was deleted to avoid confusion and the definition of residential care services was added.

Permanency plan means the documentation in a case plan which provides for permanent living alternatives for the child in foster care who is not eligible for any other federal or state program. Permanency plans are developed in accordance with tribal, cultural, and tribal/state legal standards when the parent or guardian is unable to resolve the issues that require out-of-home placement of the children.

Some commenters recommended permanency plans be developed in accordance with ICWA language.

Response: This recommendation was partially adopted. Reference to ICWA was unnecessary in this definition. The definition was revised to include a description of the circumstances where a permanency plan may be required and language indicating that a plan has been developed and implemented.

Protective services means those services necessary to protect an individual who is the victim of an alleged and/or substantiated incident of abuse, neglect or exploitation. In coordination with law enforcement and tribal courts, this may include placement of the individual out of the home to assure the safety of the individual while the allegations are being investigated. Social workers will not remove individuals from their homes without a court order except in life threatening situations. Protective services can also include provision of social services in the home, the coordination and referral to other programs/services and the involvement of Child Protection and/or Multi-Disciplinary Teams.

Some commenters objected to the sentence, ''Social Workers will not remove individuals from their homes without a court order except in life or death situations.'' One commenter requested additional clarity in explaining responsibility under protective services.

Response: These recommendations were adopted. The justification for changing this language to read that social services workers can remove individuals in life threatening situations was accepted by the Bureau and the language was revised. Repetitive language was deleted and language was added to clarify that social services has responsibility for supervision of Individual Indian Money accounts.

Public assistance means those programs of financial assistance provided by state, tribal, county, local and federal organizations including programs under Title IV of the Social Security Act (49 Stat. 620), as amended, and Public Law 104–193.

No comments were received on this definition.

Recipient is an individual or person who has been determined as eligible through documentation in the case file and is receiving financial assistance under this part.

No comments were received on this definition. This definition was revised for simplification.

Recurring income means any cash or in-kind payment, earned or unearned, received on a monthly, quarterly, semiannual, or annual basis.

No comments were received on this definition.

Resources means income and other liquid assets available to an Indian person or household to meet current essential needs, unless otherwise specifically excluded by federal statute. Liquid assets are those items in the form of cash or other financial instruments which can be converted to cash, such as savings or checking accounts, promissory notes, mortgages and similar properties, and retirements and annuities.

One commenter recommended the deletion of ''other financial instruments which can be converted to cash.'' Another commenter requested the exclusion of the value of the ''primary residence.''

Response: These recommendations were not adopted. This definition is the same definition of resources in the current regulations, 25 CFR part 20, and deletion of this language would lead to confusion. The value of the primary residence of individuals applying for assistance/services is not a countable resource.

Secretary means the Secretary of the Interior.

No comments were received on this definition.

Service area means:

(1) Reservations;

(2) Areas adjacent or adjoining reservations;

(3) Allotments outside the reservations;

(4) Areas defined as reservations or service areas by statute; and/or

(5) Other defined areas designated by the Assistant Secretary—Indian Affairs pursuant to this part.

Some commenters requested that this definition be simplified. Other commenters recommended that near reservation and reservation be added to the definition.

Response: These recommendations were adopted. A new definition was developed for service area and the definitions for near reservation and reservation were added.

Services to children, elderly and families means social services, including protective services, not including money payments, provided through the social work skills of casework, group work or community development to assist in solving social problems involving children, elderly and families.

One commenter requested the retention of existing language at 25 CFR 20.24 (Family and Community Services), and one commenter recommended deletion of the word ''elderly'' in the title. Another commenter stated that they wanted clarification of what services will be provided to the elderly population.

Response: These recommendations were not adopted. The title, ''Services to Children, Elderly and Families'' is used in the budget justification and the title was retained as it accurately describes the program. The services to be

provided under this part are non-money payment social services to children, elderly, and families.

Special needs means a financial assistance payment made to/or on behalf of individuals who have extenuating, non-medical circumstances which warrant a one-time annual financial assistance payment when other resources are not available and the circumstances are documented in the case files.

Some commenters recommended the deletion of ''one-time annual financial assistance payment'' and requested clarification whether this category of assistance applied to both adults and children.

Response: These recommendations were adopted. The one-time annual financial assistance payment limitation was deleted to allow greater flexibility. In addition, examples were provided to clarify the types of services that are considered to be special needs. Special needs have historically been limited to children's special needs, and not adults.

Subsidized guardianship means a payment of a monthly subsidy, not to exceed 2 years, for the child in long-term, court approved guardianship placements. The child must not be eligible for any other federal or state program and this must be documented in the case file.

Some commenters requested deletion of the 2-year limitation and requested an additional reference to social services.

Response: This recommendation was adopted. We are in agreement with the recommendation and deleted the 2-year limitation. The definition was revised for simplification and was termed ''guardianship'' and a reference was added for social services.

Substitute care means the provision of foster care or any in-home, out-of-home, or relative placement of the children by someone other than a parent.

Some commenters stated this definition was confusing because it appeared to be interchangeable with the foster care at § 20.509 which was renumbered in the final rule as § 20.507.

Response: This recommendation was adopted. This definition was deleted because it was unnecessary.

Superintendent means the Bureau official in charge of an agency office.

No comments were received on this definition.

Supplemental Security Income (SSI) means cash assistance provided under Title XVI of the Social Security Act (49 Stat. 620), as amended.

Some commenters requested deletion of ''those programs of,'' and replaced with ''cash.''

Response: This recommendation was adopted. This definition was revised to provide clarity.

Temporary Assistance for Needy Families (TANF) means one of the programs of financial assistance provided under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).

No comments were received on this definition.

Tribal governing body means the federally recognized governing body of an Indian tribe.

No comments were received on this definition.

Tribal redesign plan means a tribally designed method for changing general assistance eligibility and/or payment levels in accordance with appropriation language so as to reduce dependence on general assistance as specified in §§ 20.203 through 20.211.

No comments were received on this definition. This definition was revised to accurately reflect that this authority is codified and no longer limited to appropriation language.

Tribal Work Experience Program (TWEP) means a program operated by tribal contract/grant or self-governance annual funding agreement, which provides eligible participants with work experience and training that promotes and preserves work habits and develops work skills aimed toward self-sufficiency. The Bureau payment standard is established by the Assistant Secretary—Indian Affairs.

Some commenters recommended that the TWEP definition include: gaining special experience, training and acquiring skills and knowledge necessary to qualify, access and retain employment.

Response: This recommendation was not adopted. These goals and objectives are already part of the ongoing General Assistance/TWEP program.

Unemployable means a person who meets the criteria specified in § 20.315.

Some commenters stated the definition was ''demeaning,'' and others recommended clarification. One commenter suggested that this definition be reworded to specify that Unemployable means a person that is exempted from the employment policy at § 20.314.

Response: These recommendations were not adopted. The definition conveys the meaning and does not need rewording.

Section 20.101 What Is the Purpose of This Part?

Several commenters stated that other Bureau program entities such as TWEP and Adult Services should be added to this section to better explain the types of services available.

Response: This recommendation was adopted. Financial assistance and social services were added to this section and described in terms of kinds of service.

Section 20.102 What Is the Bureau's Policy in Providing Financial Assistance and Social Services Under This Part?

Some commenters stated that the Bureau program descriptions should be expanded to include employment and educational activity and that it be clarified that in some instances the Bureau programs were supplementing other agency programs on behalf of certain individuals. Some other commenters requested that the language be expanded to clarify that in certain states the Bureau programs are not comparable to county or state services and therefore should be of a primary nature. One commenter recommended adding a reference to self-sufficiency.

Response: These recommendations were not adopted. The Bureau regulations encompass financial assistance and social services and language that would address employment and educational activity would unjustly imply that the Bureau was revising parts 26 and 27 and folding them into part 20 and that is not the case. The Bureau's policy has always been that the social services program is secondary and is not to be used to supplement or supplant other programs and any language allowing the funds to be used otherwise would endanger the integrity of these funds and could lead to misuse of these limited funds. In response to the request for exemptions where there are variations in public assistance programs by county or state, existing regulations in part 1 provide a process for waiver if there is an unusual situation which requires special attention because applicants are being deprived of services. Reference to self-sufficiency is not necessary in the context of this section as references are made in subsequent sections. The Bureau renumbered (a) and (b) for clarity.

Section 20.103 Have the Information Collection Requirements in This Part Been Approved by the Office of Management and Budget?

No comments were received on this section.

Subpart B—Welfare Reform

Section 20.200 What Contact Will the Bureau Maintain With State, Tribal, County, Local, and Other Federal Agency Programs?

Some commenters stated that the Bureau should work closer with all other public assistance service providers to insure that there is no duplication and that individual client's needs are being met without limiting services to existing financial resources. One commenter suggested that ''will'' be deleted from the first sentence. Another commenter recommended language referencing tribes in the statement.

Response: These recommendations were not adopted. The Bureau has been and will continue to work with all federal and state agencies responsible for the provision of services to Indian people. Additional language to emphasize this point was not necessary. Although it is ideal to have funding available to meet all of the needs of every applicant, in reality all programs are limited by the funds they have and must adhere to the specific criteria for their own programs. The use of ''will'' in the first sentence effectively conveys the intent of the Bureau and was not deleted. The reference to ''we'' in the statement above implies all providers of services and remains in the regulations.

Secton 20.201 How Does the Bureau Designate a Service Area and What Information Is Required?

Some commenters stated that the Bureau should ensure that all eligible Indian members within the reservation, near reservation or service area be provided services and that language to that effect should be placed in the regulations and that tribes be sanctioned if they do not comply. Another commenter stated that limiting services to only tribal members was necessary for budgetary purposes. Some commenters requested that time frames be placed upon the Bureau to process requests for designation as near reservation or service area. Some commenters asked that ''Indian community'' be defined in more specific terms. One commenter requested that service area be defined as places where tribal members reside with no specific geographic area designated. Another commenter stated that tribes should have the flexibility to define their own service area. One commenter stated that they wanted service area to remain the same unless tribal governments request a change. Another commenter stated that it was unreasonable to require tribes to provide documentation for evaluation when they submit their request for service area designation. Another commenter stated that this section should be deleted and tribes should be allowed to accomplish this by tribal resolution. Another commenter requested that the definition of reservation which is in the current regulations and which contains reference to Alaska Native regions established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) and Indian Allotments be retained. Another commenter recommended that ''can'' in (b) be replaced with ''will'' to make it mandatory. One commenter stated that the language in (c)(2) which was renumbered as (a)(2) in the final rule was too vague in that comparable services between California counties and the Bureau programs is a point of contention and needs to be resolved before the regulations can be put in final. Another commenter questioned (d)(1) which was renumbered as (b)(l) in the final rule as to whether ''administratively feasible'' applied to the tribe or the Bureau. Another commenter questioned the use of the language that tribes had to document that the proposed service area would not include counties or parts thereof that have reasonably available comparable services. Another commenter requested clarification whether tribes having reservations and near reservation designations would be required to obtain a service area designation.

Response: These recommendations were partially adopted. The Bureau added language to ensure that all eligible Indian members within the reservation, near reservation or service area receive services. Time frames were not necessary for processing these requests as the number of requests for designation are very limited and will not require significant staff time. The term ''Indian community'' was deleted because it is unnecessary as a requirement for designation. Service area cannot be defined as any place where a tribal member resides in the United States or by any means that a tribe chooses because operation of the program would not be administratively or financially feasible if this language was accepted. Service areas do not change unless and until a tribe requests the change and documentation must be provided to give the Bureau sufficient facts to approve the request. This section was not deleted because this designation is a significant action with budgetary and policy ramifications. The Bureau added the definition for reservation which includes reference to the Alaska Native Claims Settlement Act (85 Stat. 688) and Indian Allotments. In addition, the definition for near reservation was added. The language stating that the Assistant Secretary can designate or modify service areas for a tribe in (b) was retained in the final rule as this conveys the intent of this section. The Bureau retained the language of reasonably available comparable services in (c)(2) and this subsection was renumbered as (a)(2) in the final rule to avoid duplication of services. The requirement of documentation for evaluation to support the service area designation as being ''administratively feasible'' was retained. The tribe requesting the designation is responsible for making sure the proposed area can be served within available funding constraints. Those tribes with reservations and near reservations as existing service areas are not required to request designation unless they request a modified geographic location as a service area.

Section 20.202 What Does Financial Assistance Include?

Some commenters requested that financial assistance be included in § 20.100 as a definition.

Response: This recommendation was accepted and the definition for financial assistance was added in § 20.100 and this section was deleted.

Section 20.203 What Is a Tribal Redesign Plan?

Some commenters asked why the Bureau was implementing the redesign at this time and asked what authority did the Bureau have to allow changes in general assistance eligibility criteria and payment levels. One commenter requested that the section include language giving approval for the redesign of child assistance. This commenter also requested language to the effect that redesigned programs may be expanded if appropriation language in the future expands the number of programs that could be redesigned. One commenter stated that redesign plans in Oklahoma would require additional funds. Another commenter requested further clarification of this section. Another commenter stated that tribes already have authority to redesign the general assistance program.

Response: These recommendations were not adopted. Congress specifically gave tribes the authority to redesign general assistance. No similar specific authority currently exists for tribes to redesign additional programs; therefore, no additional language was added to include child assistance. The language stating that the redesign will not result in additional expenses for the Bureau if

additional expenses are solely the result of increased payment levels is statutory. This section provides clarity as to the intent of the Bureau.

Section 20.204 Can a Tribe Incorporate Assistance From Other Sources Into a Tribal Redesign Plan?

One commenter stated that the Bureau should add language to the effect that all welfare assistance programs should be allowed to be included with a Pub. L. 102–477 grant, a Public Law 103–413 self-governance annual funding agreement, or a tribal redesign plan. Another commenter stated that tribes needed flexibility to use these funds to meet members' needs according to how the tribes identified these needs. Another commenter stated that this section should be rewritten to better describe the redesign in relation to Pub. L. 102–477. Another commenter asked if TANF could be included as a part of the tribal redesign plan.

Response: These recommendations were partially adopted. The Bureau does not have the authority to include all of the welfare assistance programs in a redesign. Adequate flexibility is available for tribes to redesign their programs. Tribal redesign and Pub. L. 102–477 are separate tools for tribes to use while exercising self-determination. The section was rewritten to better convey the concept of funding from other sources.

Section 20.205 Must All Tribes Submit a Tribal Redesign Plan?

One commenter stated that the table of contents mistakenly worded this section by using the word ''develop'' instead of ''submit.''

Response: This recommendation was adopted. The Table of Contents will be corrected to read ''submit'' rather than ''develop.''

Section 20.206 Can Tribes Change Eligibility Criteria or Levels of Payments for General Assistance?

Some commenters requested clarification in terms of who is to provide technical assistance and what level of funding would be used for the redesign plans. Another commenter wanted it clarified that tribes are not required to do a redesign if they did not want to pursue it. One commenter requested clarification as to how this section might affect Oklahoma. One commenter requested inclusion of child and adult assistance in this section. One commenter suggested deletion of (d) as it was redundant.

Response: These recommendations were partially adopted. The Bureau or Office of Self-Governance will provide technical assistance on redesigned plans. The existing language is sufficient to convey that the redesign is not mandatory. It is unknown how this section might affect the State of Oklahoma, because tribes propose redesign plans and it is unknown whether any tribes in Oklahoma will attempt redesign plans. In answer to the comment made about the funding level to be used, the Bureau will add language that the funding for the program will be the same funding received in the most recent fiscal or calendar year, whichever applies.

Section 20.207 Must a Tribe Get Approval for a Tribal Redesign Plan?

Some commenters pointed out that existing procedures are in effect whereby self-governance tribes routinely obtain approval for their annual funding agreements through the Office of Self-Governance and changing this process for redesign plans would be disruptive and counterproductive and that this language requiring approval by the Regional Director should be deleted. One commenter recommended that criteria be added specifying what is needed to obtain approval.

Response: These recommendations were partially adopted. The Bureau did not delete this section but added language that clarifies who will approve the tribal redesign plan. The Office of Self-Governance will continue to be the point of contact for self-governance tribes. The Bureau plans to develop a technical assistance package that will assist tribes in formulating redesign plans; however, technical assistance documentation will not be codified in regulation.

Section 20.208 Can a Tribe Use Savings From a Tribal Redesign Plan To Meet Other Priorities of the Tribe?

One commenter questioned how a general assistance program could remain a need-based program if there were savings which could be used for other priorities. Another commenter requested the Bureau to explain the different types of TPA funding in this section. Another commenter stated that an equitable level of funding should be established before the start-up of the redesign plan.

Response: These recommendations were not adopted. The regulation and statutory language give tribes the ability to use cost savings for other priorities only in the case of the general assistance redesign. A discussion of the TPA and the Bureau's budget process is not appropriate for this regulation. The level of funding for the start-up of the redesign has been added in § 20.205.

Section 20.209 What If the Tribal Redesign Plan Leads to Increased Costs?

One commenter stated that with a redesigned program there may be increased costs and if that were the case, the Bureau should assume the additional costs.

Response: This recommendation was not adopted. The Bureau is prohibited from assuming additional costs resulting solely from increased payment levels.

Section 20.210 Can a Tribe Operating Under a Tribal Redesign Plan Go Back to Operating Under This Part?

No comments were received on this section. This section was renumbered as § 20.209 in the final rule.

Section 20.211 Can Eligibility Criteria or Payments for Burial Assistance, Child Assistance, and Disaster Assistance Change?

Some commenters requested an explanation as to why the general assistance program was the only program eligible for redesign. One commenter asked if their tribe could redesign their program eligibility criteria so as to exclude those members who are less than one-quarter blood quantum. Some commenters stated that under part 900 they already had authority to redesign programs. One commenter suggested that the section be deleted. Another commenter stated that tribes financially support, with their own funds, similar programs to the Bureau's welfare assistance programs and requested clarification as to whether they could supplement their programs with the Bureau funds.

Response: These recommendations were not adopted. The Bureau has no Congressional authority or statute to allow programs including child assistance, disaster assistance, emergency assistance, and burial assistance to be redesigned. The tribes do have the flexibility to restrict services to certain populations of clients in the general assistance program if they choose to do so through a redesign plan and follow § 20.206. This section was retained because language is needed to clarify how tribes may operate their programs under the redesign process. The Bureau cannot supplement tribal programs which are similar in nature because this is a duplication and Bureau funds are a limited resource.

Subpart C—Direct Assistance

Section 20.300 What Are the Basic Eligibility Criteria?

Several commenters stated that (a) of this section is not consistent with § 20.100, definition of an Indian, and

both need to be changed to include ''enrolled'' and ''federally recognized Indians of the United States.'' Other commenters stated that (a) would result in an increase in cases in Oklahoma because the existing regulations required one-fourth or more blood quantum in addition to being a member in the States of Alaska and Oklahoma. One commenter stated that the basic eligibility criteria contained in (b) of this section means that children and elderly needing protection, and families faced with emergencies must meet income requirements.

Response: These recommendations were not adopted. The Bureau does not agree that (a) is inconsistent with the definition of Indian. The tribes determine eligibility for enrollment and membership in their respective tribes and the tribes listed in the **Federal Register**, pursuant to 25 CFR part 83, are recognized as eligible to receive services from the Bureau. Because tribal membership is the responsibility of the tribe, the Bureau is unable to determine the effect upon caseloads in Alaska and Oklahoma. Applicants are required to meet all the basic eligibility criteria of § 20.300 including (b) to receive services.

Section 20.301 What Is the Goal of General Assistance?

One commenter questioned how the Bureau general assistance goals and objectives compared to those of the National PRWORA. They asked if the Bureau supported the goals of reducing out of wedlock pregnancies and increasing collection of child support payments. One commenter requested deletion of ''meeting the goal of employment.'' One commenter stated that elder assistance should be available nationwide not just in a selective Region and stated that existing services should not be dropped.

Response: These recommendations were partially adopted. The Bureau did not delete the statement about self-sufficiency from the regulations as it is a goal of the General Assistance Program to increase self-sufficiency. TANF goals and objectives are similar to general assistance but not identical. It is the social services worker's responsibility and the individual's right to develop a Self-Sufficiency Plan which maintains the individual's and program's integrity. The Bureau agreed with the comments about the need for adult services and established an Adult Care Program under §§ 20.331 through 20.335.

Section 20.302 Are Indian Applicants Required To Seek Assistance Through TANF?

Several commenters stated that all Indian applicants with dependent children are required to apply for TANF because general assistance is a secondary source. One commenter stated that applicants whose TANF benefits have been reduced due to TANF sanctions may not be eligible to receive general assistance as tribally determined. Another commenter stated these regulations require individuals to follow TANF regulations, and requested deletion of ''and follow TANF regulations.''

Response: These recommendations were not adopted. The Bureau agreed with the comments that state that all applicants with dependent children are required to apply for TANF as general assistance is a secondary source. The Bureau agrees with the statement that applicants whose TANF benefits have been reduced due to TANF sanctions may not be eligible to receive general assistance even though the tribe is operating a tribal General Assistance program in a Public Law 102–477 grant. The Bureau did not agree with the comment that these regulations cannot force individuals to comply with TANF regulations or the recommendation to delete the requirement to follow TANF regulations. The Bureau was not attempting to regulate TANF. General Assistance is a secondary program; therefore, the applicants must apply and follow the regulations of the primary resource of cash benefits which is TANF.

Section 20.303 When Is an Applicant Eligible for General Assistance?

Two commenters stated that in (d) of this section which was renumbered as (c) in the final rule, the statement ''Not receive TANF'' should be changed to state ''If not directly receiving TANF Cash Aid'' and the word ''entitlement'' be changed to ''cash assistance'' because it is not the intent of the General Assistance regulations to prohibit a recipient from receiving general assistance while they are receiving other non-cash forms of assistance such as food stamps, surplus commodities, etc. One commenter stated that the ISP/Employment strategy development for each recipient is burdensome for tribes, who receive very little administrative money to administer general assistance and requested section (e) which was renumbered as (d) in the final rule be changed to read ''whenever possible.''

Response: These recommendations were partially adopted. The Bureau revised (c) to include language referring to any comparable public assistance to avoid duplication of service. The Bureau did not agree with the recommendation to change section (e) which was renumbered as (d) in the final rule to read ''whenever possible'' because ISP/employment strategy is necessary for applicants to become self-sufficient.

Section 20.304 When Will the Bureau Review Eligibility for General Assistance?

One commenter stated time limits are not feasible in Alaska.

Response: This recommendation was not adopted. The Bureau did not agree with the statement about time limits in Alaska. At the time of interviewing the applicant and developing the ISP, the social services worker and applicant agree on a plan which documents when eligibility will be redetermined.

Section 20.305 What Does Redetermination Involve?

Some commenters stated that home visits should not be included in redetermining program eligibility. One commenter stated that ISP's were not included in this section.

Response: These recommendations were partially adopted. The Bureau did not agree that home visits should be deleted from this section. The Bureau agreed to add ISP.

Section 20.306 What Is the Payment Standard for General Assistance?

One commenter asked how the Bureau was going to deal with states that pay $100 in TANF funds and recommended provisions to supplement amounts in states having low payment levels for TANF.

Response: This recommendation was not adopted. The Bureau must follow Public Law 104–193 for determining levels of payment; however, the tribe has the option of contracting the TANF Program and/or redesigning the eligibility and payment levels of the General Assistance Program.

Section 20.307 What Resources Does the Bureau Consider When Determining Need?

No comments were received on this section.

Section 20.308 What Does Earned Income Include?

Two commenters stated they would like to have art work, crafts and beading struck from (a) of this section if the applicant/recipient performs the work as a hobby, but the language should remain for professionals.

Response: This recommendation was adopted. If applicant/recipient are professionals, these activities should be considered as earned income for individuals who are self-employed. The Bureau agreed that if the applicant/recipient performs this as a hobby it should be eliminated from consideration as earned income.

Section 20.309 What Does Unearned Income Include?

One commenter stated that ''or 25 percent of the state standard, whichever is less'' be deleted. One commenter stated that (c) be deleted in its entirety. One commenter questioned how shelter could be provided as in-kind income. One commenter stated that workman compensation settlement payments should be considered as income. One commenter stated that trust dollars should not be included.

Response: These recommendations were not adopted. The Bureau retained the language in (c) and (e) as these subsections convey the policy of the Bureau which is to include all available items as unearned income. All agencies providing public assistance must consider all sources of income unless there is a specific federal disregard. Income generated from trust land was also retained because it is not included as a federal disregard. Workman compensation would be considered as a resource as defined in § 20.100 rather than unearned income.

Section 20.310 What Recurring Income Must Be Prorated?

No comments were received on this section.

Section 20.311 What Deducted Amounts Will Be Disregarded From the Gross Amount of Earned Income?

One commenter stated that there are instances where general assistance recipients may receive income tax refunds. The commenter stated that language should be added to insure that income tax refunds are counted as income rather than disregarded.

Response: This recommendation was not adopted. Federal and state tax refunds are considered as a resource. This section was revised to clarify that child care costs are deducted for children under the age of 6.

Section 20.312 What Amounts Will Be Disregarded From Income or Other Resources?

One commenter asked if the $2,000 cited in subsection (a) is the statutory disregard of trust resources or an increase of the $1,000 disregard currently in 25 CFR 20.21(g)(2)(i). This commenter stated that this section is unclear and may reduce eligibility requirements making additional individuals eligible for the program. Another commenter requested a list of federal disregards be published in the regulations. One commenter requested that this disregard also apply to children. Another commenter requested addition of (d) to clarify that vehicles are a disregarded resource.

Response: These recommendations were not adopted. The $2,000 disregard was an increase over the existing $1,000 disregard and does not financially impact the program. A list of federal disregards was not listed in the regulations as these change periodically. The disregard does apply to children as well as adults. The Bureau's program has never included vehicles nor has the issue arisen in the past; therefore, there was no need to clarify this as a resource.

Section 20.313 How Will the Bureau Compute Financial Assistance Payments?

Some commenters requested clarification as to how the Bureau will compute financial assistance payments. Another commenter stated General Assistance grants should be prorated from the date of application. Another commenter stated language needs to be developed for tribal redesign plans. Another commenter stated that the procedure in (b) for prorating shelter costs when two households reside in the same shelter is unclear and may reduce eligibility requirements and thus make additional individuals eligible for the program.

Response: These recommendations were not adopted. The process for computing financial assistance payments and prorating is clearly explained. For tribes using tribal redesign plans, the same proration described here must be used to determine the amount of approved payments.

Section 20.314 What Is the Policy on Employment?

One commenter stated that for a period of 60 days but not more than 90 days be changed to ''for a period of at least 30 days'' because the sanction was too severe. Another commenter asked if job search will be eliminated once an ISP is established and agreed upon by the social services worker and recipient.

Response: These recommendations were not adopted. The length of sanction remains 60–90 days as this was considered to be equitable. The number of job search contacts depends upon what was documented in the ISP.

Section 20.315 When Is the Employment Policy Not Applicable?

One commenter requested more descriptive information in (c) to fully describe the example. Another commenter suggested changing (c) to the recipient must make satisfactory progress in an ISP that leads to employment and add language that states that continued eligibility for the program is also based on satisfactory progress. Another commenter recommended deleting language in (c) that states that ''he/she was an active general assistance recipient.'' Another commenter suggested in (g) changing the age to 5 and under if they do not attend school/head start. Another commenter asked if educational opportunity was limited to those under 19 and to those that have been active general assistance recipients. Another asked for an explanation of section 5404 of Public Law 100–297. Another commenter suggested deletion of (h) and eliminating the minimum commuting time of one hour each way and replacing it with reasonable travel time. Another commenter recommended adding language stating the employment policy would not apply for a person for whom employment is not accessible in a commuting time that is reasonable and comparable with others in similar circumstances.

Response: These recommendations were not adopted. Examples were not needed as the language clearly describes all of the exceptions. Public Law 100–297 cannot be fully explained in these regulations just as other pertinent public laws referenced cannot be fully explained. The temporary medical injury which exceeds 3 months was clarified in terms of eligibility and referral. The commuting time was not changed as it is reasonable.

Section 20.316 What Must a Person Covered by the Employment Policy Do?

One commenter suggested the following change: ''If you are covered by the employment policy in § 20.314, you must seek employment in accordance with your ISP.'' This will make § 20.316 consistent with § 20.319.

Response: This recommendation was not adopted. The language in § 20.316 is consistent with existing policy in § 20.319 which requires a general assistance recipient to actively seek employment and provide the social services worker with evidence of job search activities.

Section 20.317 How Will the Ineligibility Period Be Implemented?

One commenter asked how the ineligibility period would be

implemented and requested additional language as an explanation.

Response: This recommendation was not adopted. This section clearly describes how the ineligibility period is to be implemented by describing why the ineligibility will continue, how the suspension can be reduced, and who is affected by the suspension.

Section 20.318 What Case Management Responsibilities Does the Social Services Worker Have?

One commenter stated social services workers should not have to supervise recipients because of lack of funds and staff and that case managers should help recipients get the services needed to meet their goals in their ISP. Another commenter recommended that social services worker be changed to a family advocate.

Response: These recommendations were partially adopted. Social services workers do have responsibility for assisting recipients to meet their goals in their ISP's and monitoring work related activities. The funding or lack of funding cannot be dealt within the regulations. The term ''social services worker'' was retained.

Section 20.319 What Responsibilities Does the General Assistance Recipient Have?

One commenter stated that the language ''Performs successfully'' needs to be explained in (b) and (c) and substitute words like ''satisfactory progress.'' Another commenter questioned why a recipient must be in treatment and counseling.

Response: These recommendations were not adopted. The Bureau retained the existing language as it describes participation in a positive context and success or lack of success is evaluated by each social services worker on a case by case basis. Participation in treatment and counseling services are appropriate for some recipients needing these types of services. The policy of the Bureau arranging supportive services and requiring recipient participation is consistent with other social services programs operating at the state and county levels.

Section 20.320 What Is TWEP?

No comments were received on this section.

Section 20.321 Does TWEP Allow an Incentive Payment?

One commenter requested that the payment standards be tribally determined. Another commenter asked whether TWEP was considered an incentive payment.

Response: These recommendations were not adopted. The payment standard will be determined by the Bureau as this is a budgetary concern. TWEP payments are considered to be incentives.

Section 20.322 Who Is Eligible To Receive a TWEP Incentive Payment?

One commenter recommended deletion of the following language ''in situations where the participation is mandatory.'' Another commenter suggested the following change: ''Where there are multiple family units in one household'' to ''Where there are more than one household in a dwelling.''

Response: These recommendations were not adopted. Since tribes do have the option of making TWEP mandatory, the language was retained. The existing language regarding family units was retained as it accurately conveys the intent of the section which is where there are multiple family units in one household, one member of each family unit will be eligible to receive the TWEP incentive payment.

Section 20.323 Will the Local TWEP Be Required To Have Written Program Procedures?

One commenter suggested inclusion of language that states local TWEP must have specific written program procedures that cover progress.

Response: This recommendation was not adopted. Progress is documented in the ISP for TWEP participants.

Section 20.324 When Can the Bureau Provide Burial Assistance?

No comments were received on this section.

Section 20.325 What Is the Process for Making Application for Burial Assistance for Eligible Indians?

One commenter suggested changing SSI to SSA lump sum death benefits. Another commenter stated that the standard of payments for burials is currently $1,300 and is not enough to take care of a proper burial and updating these standards should be considered. Another commenter stated, ''A tribal cultural wake in accordance to the tribe's culture'' should be added. Another suggested that a payment standard should be recommended by the Regional Director or Central Office. Another commenter recommended changing the language to state that requests and applications for Burial Assistance must be submitted within 30 days after the issuance of a Death Certificate rather than following death.

Response: These recommendations were not adopted. Social Security lump sums are considered as a resource and additional language was not needed. Payment rates which include cultural wakes will be reviewed periodically and raised if warranted. The Bureau retained existing language that applications need to be submitted within 30 days following death. The Assistant Secretary will establish the standard payment referred to in this section within 60 days after this rule is published in final.

Section 20.326 When Are the Related Transportation Expenses Covered by Burial Assistance?

One commenter stated that it should be up to the tribe to determine when transportation expenses could be paid particularly in those instances when the individual is gone for more than 6 months. Another commenter stated that they were opposed to this section because they had tribal members who have resided outside of the service area for a period of time exceeding 6 consecutive months and this regulation prohibits them from helping these members with burial assistance.

Response: These recommendations were not adopted. The Bureau has limited eligibility to eligible members who resided in the service area for at least the last 6 consecutive months of his/her life because of budgetary concerns.

Section 20.327 When Can the Bureau Provide Disaster Assistance?

One commenter suggested tribal resolutions should be used to request disaster assistance. Another commenter recommended deletion of ''provided'' and insertion of the word ''available.''

Response: These recommendations were not adopted. The language was adequate in stating that disaster assistance can be provided in absence of FEMA and Red Cross.

Section 20.328 How Can a Tribe Apply for Disaster Assistance?

One commenter stated that a tribal resolution requesting disaster assistance should be adequate rather than a Presidential declaration. Another commenter stated that there should be a time limit for response by the Bureau and that (b) should be deleted. One commenter suggested the tribal requests go directly to the Assistant Secretary for a final decision.

Response: These recommendations were not adopted. The Bureau does not agree that only a tribal resolution should be required, and retained the entire section because the reporting requirements must be met in order to avoid duplication of services and to obtain projections of total need for

services. The request for disaster assistance must be processed by the local Bureau office to insure that all necessary documentation is included.

Section 20.329 When Can the Bureau Provide Emergency Assistance Payments?

One commenter suggested language establishing a disaster contingency fund.

Response: This recommendation was not adopted. It is unnecessary to set up such a fund given the limited need for these funds.

Section 20.330 What Is the Payment Standard for Emergency Assistance?

One commenter recommended raising the rates and another stated that this section should only apply to tribes that have their own standards/guidelines for emergency assistance. Another commenter recommended that this section be deleted.

Response: These recommendations were not adopted. The Assistant Secretary will establish the payment standard referred to in this section within 60 days after this rule is published in final.

Subpart D—Services to Children, Elderly, and Families

Section 20.400 For Whom Should Services to Children, Elderly, and Families Be Provided?

One commenter requested clarification as to the meaning of services to children, elderly and families.

Response: This recommendation was not adopted. The term replaces the category formerly called, ''Family and Community Services'' which is the non-payment category of services. It was revised in the budget justification at the request of budget analysts because it provides a better description of recipients for whom services are provided.

Section 20.401 What Services Are Included Under Services to Children, Elderly and Families?

One commenter stated that adult care service should be included in this section. Another commenter suggested that chore services should be included in this section. Other commenters recommended that additional funds be distributed to tribes as the work described in this section required more personnel. Another commenter stated that coordination with law enforcement and the courts could not be completed before removal of individuals needing protective services. Some commenters stated that there was confusion as the word ''elderly'' was used in the section title but within the body of the section ''adult'' was used consistently. One commenter stated that language should be added to explain that referrals could be made for adults in addition to children. Another commenter stated that language in (b)(4)(ii) which was renumbered as § 20.403(d)(2) was troublesome, specifically the language, ''treatment of the identified conditions that are within the competence of social services.'' Another commenter made a comparison of this section with the Bureau's current regulation in § 20.24 and stated that in his/her opinion the following services which are included in § 20.24 would be unavailable: Services to responsible family members or guardians to seek appropriate court protections for the child or adult; investigation and reporting of adult abuse and neglect and of delinquency and runaways; and provisions of services by court order for marriage and divorce counseling, child custody, probation, foster care and supervision of children and adults in the home. Another commenter suggested that protective services be explained in more detail.

Response: These recommendations were partially adopted. Adult care assistance was added in subpart C § 20.331–20.335 and explained as a service. Chore service was not added as homemaker adequately describes the service to be provided. Additional funding for social service administration funding was not addressed in the regulations as the budget process is a separate issue from programmatic rulemaking. In response to the comment that in certain instances law enforcement and courts cannot be involved before removal for protective services, the Bureau made an adequate exception in terms of life threatening situations. The Bureau included a definition for ''adult'' which should clarify who is to be served. The Bureau made a change by adding § 20.403 to make sure that elderly are included in referrals for homemaker services. The Bureau did not change (b)(4)(ii) as it accurately conveys that social service workers will limit services to the profession of social work. The Bureau did not add those sections referenced above in § 20.24 as these are services that a tribe may choose to provide on its own initiative but they are not required by regulation. The Bureau added separate sections §§ 20.402 and 20.403 which explained when protective services are provided and clarified what types of services are provided. The Bureau added § 20.404 to provide further explanation to the term ''social services assessment'' which was used in § 20.403.

Subpart E—Child Assistance

Section 20.500 What Are the Eligibility Criteria for Child Assistance?

One commenter stated that this section was not consistent with the Indian Child Welfare Act. Another commenter stated that the eligibility criteria should be deleted. Another commenter asked the question if tribes receive Title IV–E funding for foster care will their current Bureau funding for foster care be reduced. One commenter questioned why a documented family assessment was required in (a) which was renumbered as (b)(3) in the final rule. Another commenter stated that special needs in (a) which was renumbered as (b)(2) in the final rule should be defined. Another commenter requested clarification that courts do not make requests but instead issue orders. Another commenter requested an explanation of (d) which was renumbered as (f) in the final rule in terms of what is the meaning of all income accruing to children. Another commenter asked if relative care givers under (d) which was renumbered as (c) in the final rule would have to apply to state TANF and be denied payments or other assistance. Another commenter asked for language to allow general assistance to supplement TANF. Some commenters stated that in (e) where the word ''must'' was used that it should be replaced by the word ''will'' and another commenter stated that (e) should be deleted. One commenter stated that some of the services in subpart E are duplicated in subpart D and should be consolidated in subpart D. Another commenter noted a typographic error because ''and'' was not inserted after (a), (b) and (d). One commenter recommended that the residential care rate be computed the same way as the foster care rate.

Response: These recommendations were partially adopted. This regulation did not address the Indian Child Welfare Act as that is addressed in part 23. Eligibility criteria were not deleted as criteria are needed to determine eligibility. In response to the question as to whether child assistance funding would be decreased if tribes received Title IV–E funding for foster care, the Bureau continues to operate the program as a need-based program. A documented family assessment is required so that the social services worker can make the best decision possible for eligibility and placement. ''Special needs'' was defined in

§ 20.100. There is no confusion in (a) that courts issue orders rather than make requests. The Bureau deleted (c), (d) and (e) and renumbered (f) to (c) for the purpose of clarity. The Bureau services described in subparts D and E remain where they are located because they are differentiated by payment or non-payment services. The typographic errors were corrected. The residential care rate was modified to be consistent with the foster care rate.

Section 20.501 What Are the Rates of Payment for Foster Care?

One commenter questioned why the Bureau used Title IV of the Social Security Act as the payment rate for foster care and did not either set a Bureau rate or allow tribes to set their own rate.

Response: This recommendation was not adopted. The Bureau has used this rate for many years and has found that it is the most appropriate rate to use for this service. This section was renamed and rewritten in the final rule in the form of a table for clarification purposes.

Section 20.502 Can Child Assistance Funds Be Used for Placement of Indian Children in Treatment Centers?

One commenter stated that the requirement of a written agreement to be approved by the Regional Director, should be changed to the local Bureau official for approval. Another commenter requested clarification that this service was out of the home. Another commenter requested deletion of the requirement that placements had to be in facilities licensed by the tribe or state. Another commenter requested deletion of the requirement that a written agreement be signed between the various funding sources to identify the services each will pay before the actual placement. Another commenter requested that child assistance be used for other services other than room and board.

Response: These recommendations were partially adopted. The approval by the Regional Director was changed to the Bureau line officer. The service provided in a treatment center is clearly a service that cannot be provided in the home. Treatment Center was revised to read residential care facilities in the final rule. Placements in licensed facilities insures a minimum level of service and was retained. Use of a written agreement specifying who is paying for specific services was retained as it is necessary to have a specific budget to work with because funds are limited. The Bureau retained the language that specifies use of funds for only room and board as the Bureau has limited funds and other agencies having primary service responsibility should be involved in payment for services.

Section 20.503 Can Child Assistance Funds Be Used for Indian Adoption Subsidies or Subsidized Guardianships?

One commenter suggested that the 2-year limit for adoption and guardianship subsidies should be eliminated and that the Regional Director approval be changed.

Response: This recommendation was adopted. The Bureau eliminated the 2-year limitation and changed the approval to the Bureau line officer. The redetermination for eligibility was clarified as being conducted on a yearly basis.

Section 20.504 What Eligibility Requirements Must Be Met for an Indian Adoption Subsidy or Subsidized Guardianship?

One commenter requested explanation as to why children must be under the age 18 to be eligible for adoption subsidy or subsidized guardianship. Another commenter questioned the eligibility requirement for children to have been in foster care previously to be eligible for adoption subsidy or subsidized guardianship. Another commenter stated that this section prevented placement of children on temporary basis without permanency planning. Another commenter asked what the special circumstances were in (a). This section was combined with § 20.503 in the final rule.

Response: These recommendations were not adopted. The requirement to be under the age of 18 (with regard to special circumstances as defined by tribal standards) and to have been in foster care previously to be eligible for adoption subsidy or subsidized guardianship was included to focus upon long-term cases which have the highest priority. The language in this section facilitates temporary placement if there is a need for this service. The tribes have flexibility to interpret special circumstances.

Section 20.505 What Is the Payment Standard for Adoption and Guardianship?

Some commenters stated that the payment standard should be decided by the tribes operating the programs. This section was combined with § 20.501 in the final rule.

Response: This recommendation was not adopted. The Bureau needs to establish the rate as this is a budgetary concern. The Assistant Secretary will establish the payment standard referred to in this section within 60 days after this rule is published in final.

Section 20.506 Can Homemaker Services Be Provided With Child Assistance?

One commenter stated that homemaker services should stay short term not to exceed 3 months. Another commenter requested that it not be limited to 3 months but language should be added to state it would be reviewed every 6 months. This section was renumbered as § 20.504 in the final rule.

Response: These recommendations were not adopted. Limiting services to 3 months accurately conveys the intent of this service which is to keep it short term.

Section 20.507 What Services Are Provided Jointly With the Child Assistance Program?

One commenter requested that a written agreement signed among the various funding sources should be deleted. Another commenter requested that (b) protective services be explained in more detail. This section was renumbered as § 20.505 in the final rule.

Response: These recommendations were not adopted. The requirement for a written agreement was retained as this is an important planning and budgetary requirement which will clarify responsibilities before placement. Protective services were described in § 20.401 which was renumbered as §§ 20.402 and 20.403 and it was unnecessary to repeat them in this section.

Section 20.508 What Information Is Required in the Foster Care Case File?

One commenter suggested that this section be deleted as it was unnecessary. One commenter suggested the addition of language at the end of (d) if available and at the end (h) if applicable after Medicaid. Another commenter suggested a rewrite of the section because (e) which references a payment plan with parental agreement may not be applicable where parents do not agree to contribute financial support. This section was renumbered as § 20.506 in the final rule.

Response: These recommendations were not adopted because the information requirements are critical for a successful foster care placement and specifying them in regulations ensures that the dates will be provided. Even if a parent does not agree to contribute financial support, there should be a plan which involves their participation as they are not relieved of responsibility. The parents' cooperation is needed

particularly if reunification is the ultimate goal.

Section 20.509 What Are The Requirements For Foster Care?

One commenter asked if the intent of this section was to require social services workers to enforce child support collection. Another commenter asked whether homemaker services could be used for handicapped children. Another commenter pointed out that in many instances there was a poor relationship between tribes and state courts. One commenter stated that background checks conducted on foster home providers were not legal. One commenter stated that (a) implied that the court had a role in selecting the placement rather than social services and recommended language deleting the reference to courts. Another commenter questioned the use of state standards of payment for necessary care in (e) and recommended establishing the rates at the local level. Another commenter suggested a problem in (f) in gaining parental agreement and recommended addition of the phrase ''when possible.'' This section was renumbered as § 20.507 in the final rule.

Response: These recommendations were not adopted. The Bureau is not requiring social services workers to pursue child support enforcement; however, they are required to cooperate with other service delivery systems that have responsibility for enforcement of child support. Section 20.501 describes use of homemaker services for children which could include handicapped children but it is only short term in nature. Working relationships between tribes and states is not a subject that can be addressed in regulations. The Bureau retained the requirement of background checks as this is in compliance with part 63 and Public Law 101–630.

Section 20.510 How Is the Court Involved in Foster Care Placements?

One commenter stated that there was an inconsistency because § 20.508(i) stated that a court needed to be involved if a placement goes beyond 30 days and therefore the language in § 20.510 needed rewording because there were instances where the court may not be involved. This section was renumbered § 20.508(i) in the final rule.

Response: This recommendation was not adopted. The Bureau language did not need to be changed to clarify the intent because § 20.508(i) gives flexibility in those instances where a court may not be involved by stating the placement will be in accordance with tribal codes and standards authorized by a court of competent jurisdiction and is not in conflict with § 20.510.

Section 20.511 Should Permanency Plans Be Developed?

Some commenters stated that the requirement to have permanency planning developed within 6 months was not possible or realistic and suggested that it be changed to 12 months.

Response: This recommendation was not adopted. The Bureau retained the 6-month requirement as this is realistic and conveys that this should be a high priority.

Section 20.512 Can the Bureau/Tribal Contractors Make Indian Adoptive Placements?

No comments were received on this section.

Section 20.513 Should Interstate Compacts Be Used for the Placement of Children?

One commenter suggested changing ''must'' to ''should.''

Response: This recommendation was adopted. The Bureau changed the wording.

Section 20.514 What Assistance Can the Courts Request From Social Services on Behalf of Children?

One commenter stated that this section conflicted with § 20.510.

Response: This recommendation was not adopted. The Bureau did not agree that there was a conflict between § 20.510 and § 20.514, because § 20.510 explains the courts authority in terms of expenditure of funds and § 20.514 explains the types of social services that can be requested by the courts.

Section 20.515 What Is Required for Case Management?

One commenter stated that in some instances there was not enough staff for a supervisor to complete case reviews every 90 days.

Response: This recommendation was not adopted. The Bureau feels that reviewing cases every 90 days is both important and reasonable.

Section 20.516 How Are Child Abuse and Neglect Cases To Be Handled?

One commenter suggested replacing ''must'' with the word ''will'' and also noted that there were insufficient funds to handle child abuse and neglect cases. One commenter questioned the requirement of child protection teams as their reading of Public Law 99–570 and Public Law 101–630 did not specify child protection teams.

Response: These recommendations were partially adopted. The Bureau replaced ''must'' with ''will.'' The lack of administrative funding cannot be addressed in the regulations. The Bureau has issued guidance on child protection teams for many years and there has never been any question raised about the legality of child protection teams, which are referenced under Pub. L. 99–570 and Pub. L. 101–630 to handle child protection issues. Therefore, the language was retained.

Subpart F—Administrative Procedures

Section 20.600 How Is an Application for Financial Assistance or Social Services Made?

One commenter stated that there was confusion as to whether an application was required to be in writing. One commenter stated that there was confusion between applications and referrals. Another commenter stated that language was needed to clarify that contractors should forward applications to the appropriate tribal staff.

Response: These recommendations were partially adopted. All applications must be in writing. The language should have stated that oral applications would need to be reduced to writing at a later date if an oral application was taken originally. Referrals are clearly for the purpose of making application so this language remained unchanged. The current regulations in place for the past 15 years have included reference to the Superintendent and there has never been confusion among tribes as to where applications must go when tribes operate the Social Service program. This particular language was retained. This section was rewritten in the final rule for clarification purposes.

Section 20.601 From Whom Is Eligibility Information Collected?

Some commenters stated that when there was a change in the recipient's circumstances which affected payment level that a process for overpayment should be described and the direct service providers should be able to refer this matter to administrative staff for follow up. One commenter stated that this section was in conflict with § 20.304 because it stated a recipient was required to immediately inform social services of any changes rather than within 30 days.

Response: These recommendations were partially adopted. The overpayment process is more appropriately addressed in internal procedures. The Bureau changed § 20.601 which was renumbered as § 20.602 to require the recipient to immediately inform the social services office of any change in status affecting

eligibility or amount of assistance. This section was rewritten in the final rule for clarification purposes.

Section 20.602 How Is an Application Approved or Denied?

One commenter stated that the proper reference in this section was §§ 20.300 through 20.516 and also suggested the section should be rewritten to state that the Bureau is the approving or denying authority and that an additional section should be added for tribes to outline how they approve or deny an application. This section was renumbered as § 20.603 in the final rule.

Response: These recommendations were partially adopted. The Bureau changed the section reference number to add better clarity. However, the Bureau did not change the remainder of the section because there is no confusion as to tribes' responsibilities when they contract for the service.

Section 20.603 How Is an Applicant or Recipient Notified That Benefits or Services Are Denied?

One commenter noted that under (5) ''not'' had been deleted and thus allowing an appeal under part 2 when the intent was to make the decision final and not subject to appeal if there was no request for a hearing within 20 days of the date of the notice. Another commenter suggested an additional section for contractors and inclusion of language in the original section stating that this section applied to the Bureau only. This section was renumbered as § 20.604 in the final rule.

Response: These recommendations were partially adopted. The Bureau agreed that under (5) ''not'' was incorrectly deleted and this was corrected. Additional language was not needed for contractors.

Section 20.604 How Is an Incorrect Payment Adjusted or Recovered?

One commenter suggested an additional section for contractors and inclusion in the original section which specified that this section applied to the Bureau only. This section was renumbered as § 20.606 in the final rule.

Response: This recommendation was not adopted. A separate section for contractors was not added as it is not necessary because part 900 explains the responsibilities of contractors.

Section 20.605 What Happens When Applicants or Recipients Knowingly and Willfully Provide False, Fictitious, or Fraudulent Information?

No comments were received on this section. This section was renumbered as § 20.607 in the final rule and rewritten for clarification purposes.

Subpart G—Hearings and Appeals

Section 20.700 Can an Applicant or Recipient Appeal the Decision of a Bureau Official?

No comments were received on this section.

Section 20.701 Does an Applicant or Recipient Receive Financial Assistance while an Appeal is Pending?

One commenter stated that an applicant should not receive assistance if they have not been determined eligible for assistance.

Response: This recommendation was not adopted. The section conveys the intent in that financial assistance will continue while the Superintendent makes a final decision on an appeal which is pending. Recovery for overpayments was addressed in the section.

Section 20.702 When Is an Appeal Hearing Scheduled?

One commenter stated that the section should be rewritten to explain that the recipient has a right to request an extension of 10 days for the date of the hearing.

Response: This recommendation was not adopted. The Bureau did not make this change because this section does not guarantee an extension of 10 days for the hearing to the recipient nor was the section designed to provide such an extension.

Section 20.703 What Must the Written Notice of Hearing Include?

No comments were received on this section.

Section 20.704 Who Conducts the Hearing or Appeal From a Bureau Decision or Action and What Is the Process?

No comments were received on this section.

Section 20.705 Can an Applicant or Recipient Appeal a Tribal Decision?

One commenter stated that there should be a process for applicants or recipients to appeal tribal decisions. Another commenter stated that this section violated tribal sovereignty.

Response: These recommendations were not adopted. This process for appeals of a tribe's decisions should be an internal procedure which is specified in the tribe's own policy and procedure manual. This section was not changed because it clarifies the Bureau's role in terms of applicant or recipient appeals of tribal decisions.

Regulatory Planning and Review (E.O. 12866)

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or state, local, or tribal governments or communities. Tribes have been operating this financial assistance program for 30 years and the amount of funding is dependent upon the local economy in terms of unemployment and extent of need for funds. Approximately 400 tribes receive some form of financial assistance yearly and the amount of funds varies according to caseload increases and decreases. The Bureau's total expenditure for social service programs is $94 million.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients. It establishes procedures for various social services programs, but does not alter the amounts that will be awarded.

(4) This rule does not raise novel legal or policy issues.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) specifically excludes Indian tribes from its coverage.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of $100 million or more. The financial assistance funds available total $94 million and are divided up between 400 Indian communities based upon need.

(b) Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. This rule provides guidance for a welfare benefit program and will not affect payment levels of eligible clients nor cause increases or decreases in existing caseloads or total expenditures.

(c) Does not have significant adverse effects on competition, employment,

investment, productivity, innovation, or the ability of U.S.-based enterprises to compete with foreign-based enterprises. This program is a welfare benefit program and does not affect local enterprises.

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on state, local, or tribal governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (1 U.S.C. 1531, *et seq.*) is not required.

Takings (E.O. 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implication assessment is not required.

Federalism (E.O. 13132)

In accordance with Executive Order 13132 this rule does not have significant Federalism effects. Consultation was not conducted with state and local officials because the rule does not affect state and local entities but does affect tribal communities. Consultation was conducted with tribal officials at three separate locations and their recommendations were considered in the preparation of the final rule.

Civil Justice Reform (E.O. 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation requires an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is required. An OMB Form 83–I and an information collection packet were reviewed by the Department and were sent to OMB for approval on March 31, 1999. Subsequently, OMB provided approval on June 8, 1999, for form number OMB 1076–0017 for the Bureau Financial and Social Services Program.

The Bureau has reviewed the information needed and reduced the amount of information being collected. The information collection takes 15 minutes for 200,000 respondents for a burden of 50,000 hours. The information collection is used to make decisions within the framework of the financial assistance program, such as determining eligibility, ensuring uniformity of services, and maintaining current records for audit purposes. The information collection is required to obtain or retain a benefit. Information covered by the Privacy Act will be kept confidential as required by regulation. Please note that an agency may not collect or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

List of Subjects in 25 CFR Part 20

Administrative practice and procedures, Child welfare, Indians—social welfare, Public assistance programs.

For the reasons set out in the preamble, we are revising part 20 in chapter I of title 25 of the Code of Federal Regulations as follows.

PART 20—FINANCIAL ASSISTANCE AND SOCIAL SERVICES PROGRAMS

Subpart A—Definitions, Purpose and Policy

Sec.

Subpart B—Welfare Reform

Subpart C—Direct Assistance

Eligibility for Direct Assistance

Determining Need and Income

Employment Requirements

Tribal Work Experience Program (TWEP)

Burial Assistance

Disaster Assistance

Emergency Assistance

Authority: 25 U.S.C. 13; Pub. L. 93–638; Pub. L. 98–473; Pub. L. 102–477; Pub. L. 104–193; Pub. L. 105–83.

Subpart A—Definitions, Purpose and Policy

§ 20.100 What definitions clarify the meaning of the provisions of this part?

Adult means an Indian person age 18 or older.

Adult assistance care means financial assistance provided on behalf of an Indian adult who is not eligible for any other state, federal, or tribal assistance as documented in the case file and who requires non-medical personal care and supervision due to advanced age, infirmity, physical condition or mental impairment.

Appeal means a written request for correction of an action or decision of a specific program decision by a Bureau official (§ 20.700) or a tribal official (§ 20.705).

Applicant means an Indian individual by or on whose behalf an application for financial assistance and/or social services has been made under this part.

Application means the written or oral process through which a request is made for financial assistance or social services.

Assistant Secretary means the Assistant Secretary—Indian Affairs.

Authorized representative means a parent or other caretaker relative, conservator, legal guardian, foster parent, attorney, paralegal acting under the supervision of an attorney, friend or other spokesperson duly authorized and acting on behalf or representing the applicant or recipient.

Bureau means the Bureau of Indian Affairs of the United States Department of the Interior.

Bureau Standard of Assistance means payment standards established by the Assistant Secretary for burial, disaster, emergency, TWEP and adoption and guardian subsidy. In accordance with Public Law 104–193, the Bureau standard of assistance for general assistance is the state rate for TANF in the state where the applicant resides. Where the Bureau provides general assistance on a reservation that extends into another state, the Bureau will provide general assistance to eligible Indians based on the standard of assistance where the applicant resides if the applicant is not eligible for state general assistance or TANF. The Bureau standard of assistance for adult care assistance is the state rate for adult care assistance in the state where the applicant resides. The Bureau standard of assistance for foster care is the state rate for foster care in the state where the applicant resides as provided by Title IV of the Social Security Act (49 Stat. 620).

Burial assistance means a financial assistance payment made on behalf of an indigent Indian who meets the eligibility criteria to provide minimum burial expenses according to Bureau payment standards established by the Assistant Secretary.

Case means a single type of assistance and/or service provided to an individual or household in response to an identified need which requires intervention by social services.

Case management means the activity of a social services worker in assessing client and family problem(s), case planning, coordinating and linking services for clients, monitoring service provisions and client progress, advocacy, tracking and evaluating services provided, such as evaluation of child's treatment being concurrent with parent's treatment, and provision of aftercare service. Activities may also include resource development and providing other direct services such as accountability of funds, data collection, reporting requirements, and documenting activities in the case file.

Case plan means a written plan with time limited goals which is developed and signed by the service recipient and social services worker. The case plan will include documentation of referral and disapproval of eligibility for other services. The plan must incorporate the steps needed to assist individuals and families to resolve social, economic, psychological, interpersonal, and/or other problems, to achieve self-sufficiency and independence. All plans for children in foster care or residential

care must include a permanency plan which contains a time specific goal of the return of the child to the natural parents or initiation of a guardianship/adoption.

Child means an Indian person under the age of 18 except that no person who has been emancipated by marriage will be deemed a child.

Child assistance means financial assistance provided on behalf of an Indian child, who has special needs as specified in § 20.100. In addition, assistance includes services to a child who requires placement in a foster home or a residential care facility in accordance with standards of payment levels established by the state or county in which the child resides. Further, assistance includes services to a child in need of adoption or guardianship in accordance with payment levels established by the Assistant Secretary.

Designated representative means an official of the Bureau who is designated by a Superintendent to hold a hearing as prescribed in §§ 20.700 through 20.705 and who has had no prior involvement in the proposed decision under § 20.603 and whose hearing decision under §§ 20.700 through 20.705 will have the same force and effect as if rendered by the Superintendent.

Disaster means a situation where a tribal community is adversely affected by a natural disaster or other forces which pose a threat to life, safety, or health as specified in §§ 20.327 and 20.328.

Emergency means a situation where an individual or family's home and personal possessions are either destroyed or damaged through forces beyond their control as specified in § 20.329.

Employable means an eligible Indian person who is physically and mentally able to obtain employment, and who is not exempt from seeking employment in accordance with the criteria specified in § 20.315.

Essential needs means shelter, food, clothing and utilities, as included in the standard of assistance in the state where the eligible applicant lives.

Extended family means persons related by blood, marriage or as defined by tribal law or custom.

Family assessment means a social services assessment of a family's history and present abilities and resources to provide the necessary care, guidance and supervision for individuals within the family's current living situation who may need social service assistance and/or services.

Financial Assistance means any of the following forms of assistance not provided by other federal, state, local or tribal sources:

(1) Adult Care Assistance for adults who require non-medical personal care and supervision;

(2) Burial Assistance for indigent burials;

(3) Child Assistance for any child with special needs, in need of placement in a foster home or residential care facility, or in need of adoption or guardianship;

(4) Disaster Assistance;

(5) Emergency Assistance for essential needs to prevent hardship caused by burnout, flooding of homes, or other life threatening situations that may cause loss or damage of personal possessions;

(6) General Assistance for basic essential needs; or

(7) Tribal Work Experience Program for participants in work experience and training.

Foster care services means those social services provided to an eligible Indian child that is removed from his or her home due to neglect, abandonment, abuse or other maltreatment and placed in a foster home. Services must also be extended to the affected family members and foster parent(s) with a goal of reuniting and preserving the family.

General Assistance means financial assistance payments to an eligible Indian for essential needs provided under §§ 20.300 through 20.319.

Guardianship means long-term, social services and court approved placement of a child.

Head of household means a person in the household that has primary responsibility and/or obligation for the financial support of others in the household. In the case of a two parent household, one will be considered the head of household for the purpose of making an application for benefits.

Homemaker services means non-medical services provided by social services, in the absence of other resources, to assist an eligible Indian in maintaining self-sufficiency, and preventing placement into foster care or residential care. Examples of services included in homemaker services are: cleaning an individual's home, preparing meals for an individual, and maintaining or performing basic household functions.

Household means persons living together who may or may not be related to the ''head of household.''

Indian means any person who is a member of an Indian tribe.

Indian court means Indian tribal court or Court of Indian Offenses.

Indian tribe means an Indian or Alaska Native tribe, band, nation, pueblo, village, or community which is recognized as eligible for the special programs and services provided by the United States because of their status as Indians.

Individual Self-sufficiency Plan (ISP) means a plan designed to meet the goal of employment through specific action steps and is incorporated within the case plan for the general assistance recipient. The plan is jointly developed and signed by the recipient and social services worker.

Near Reservation means those areas or communities designated by the Assistant Secretary that are adjacent or contiguous to reservations where financial assistance and social service programs are provided.

Need means the deficit after consideration of income and other resources necessary to meet the cost of essential need items and special need items as defined by the Bureau standard of assistance for the state in which the applicant or recipient resides.

Permanency plan means the documentation in a case plan which provides for permanent living alternatives for the child in foster care, a residential care facility, or in need of adoption or guardianship. Permanency plans are developed and implemented in accordance with tribal, cultural, and tribal/state legal standards when the parent or guardian is unable to resolve the issues that require out-of-home placement of the child.

Protective services means those services necessary to protect an Indian who is the victim of an alleged and/or substantiated incident of abuse, neglect or exploitation or who is under the supervision of the Bureau in regard to the use and disbursement of funds in his or her Individual Indian Money (IIM) account.

Public assistance means those programs of financial assistance provided by state, tribal, county, local and federal organizations including programs under Title IV of the Social Security Act (49 Stat. 620), as amended, and Public Law 104–193.

Recipient is an eligible Indian receiving financial assistance or social services under this part.

Recurring income means any cash or in-kind payment, earned or unearned, received on a monthly, quarterly, semiannual, or annual basis.

Regional Director means the Bureau official in charge of a Regional Office.

Reservation means any federally recognized Indian tribe's reservation, pueblo, or colony.

Residential care services means those rehabilitation services provided to an eligible Indian child that is removed from his or her home due to lack of

resources in the home to care for him or her and placed in a residential care facility.

Resources means income, both earned and unearned, and other liquid assets available to an Indian person or household to meet current living costs, unless otherwise specifically excluded by federal statute. Liquid assets are those properties in the form of cash or other financial instruments which can be converted to cash, such as savings or checking accounts, promissory notes, mortgages and similar properties, and retirements and annuities.

Secretary means the Secretary of the Interior.

Service area means a geographic area designated by the Assistant Secretary where financial assistance and social services programs are provided. Such a geographic area designation can include a reservation, near reservation, or other geographic location.

Services to children, elderly and families means social services, including protective services provided through the social work skills of casework, group work or community development to assist in solving social problems involving children, elderly and families. These services do not include money payments.

Special needs means a financial assistance payment made to or on behalf of children under social services supervision for circumstances that warrant financial assistance that is not included in the foster care rates; for example, respite care, homemaker service, day care service, and may include basic needs (special diets) which are not considered as a medical need where other resources are not available.

Superintendent means the Bureau official in charge of an agency office.

Supplemental Security Income (SSI) means cash assistance provided under Title XVI of the Social Security Act (49 Stat. 620), as amended.

Temporary Assistance for Needy Families (TANF) means one of the programs of financial assistance provided under the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA).

Tribal governing body means the federally recognized governing body of an Indian tribe.

Tribal redesign plan means a tribally designed method for changing general assistance eligibility and/or payment levels in accordance with 25 U.S.C.A. § 13d-3.

Tribal Work Experience Program (TWEP) means a program operated by tribal contract/grant or self-governance annual funding agreement, which provides eligible participants with work experience and training that promotes and preserves work habits and develops work skills aimed toward self-sufficiency. The Bureau payment standard is established by the Assistant Secretary.

Unemployable means a person who meets the criteria specified in § 20.315.

§ 20.101 What is the purpose of this part?

The regulations in this part govern the provision to eligible Indians of the following kinds of financial assistance and social services:

(a) Adult Care Assistance;

(b) Burial Assistance;

(c) Child Assistance;

(d) Disaster Assistance;

(e) Emergency Assistance;

(f) General Assistance;

(g) Services to Children, Elderly and Families; and

(h) Tribal Work Experience Program.

§ 20.102 What is the Bureau's policy in providing financial assistance and social services under this part?

(a) Bureau social services programs are a secondary, or residual resource, and must not be used to supplement or supplant other programs.

(b) The Bureau can provide assistance under this part to eligible Indians when comparable financial assistance or social services are either not available or not provided by state, tribal, county, local or other federal agencies.

(c) Bureau financial assistance and social services are subject to annual Congressional appropriations.

§ 20.103 Have the information collection requirements in this part been approved by the Office of Management and Budget?

The information collection requirements contained in §§ 20.300, 20.400, and 20.500 were submitted for clearance to the Office of Management and Budget under 44 U.S.C. 35d *et seq*. This information collection was approved by OMB with OMB Control #1076–0017. The expiration date is on the form. The information is collected to determine applicant eligibility for services. The information will be used to determine applicant eligibility and to insure uniformity of services. Response is required to obtain a benefit. The public reporting burdens for this form are estimated to average 15 minutes per response including time for reviewing the instructions, gathering and maintaining data, and completing and reviewing the form.

Subpart B—Welfare Reform

§ 20.200 What contact will the Bureau maintain with State, tribal, county, local, and other Federal agency programs?

We will coordinate all financial assistance and social services programs with state, tribal, county, local and other federal agency programs to ensure that the financial assistance and social services program avoids duplication of assistance.

§ 20.201 How does the Bureau designate a service area and what information is required?

The Assistant Secretary can designate or modify service areas for a tribe. If you are a tribe requesting a service area designation, you must submit each of the following:

(a) A tribal resolution that certifies that:

(1) All eligible Indians residing within the service area will be served; and

(2) The proposed service area will not include counties or parts thereof that have reasonably available comparable services.

(b) Additional documentation showing that:

(1) The area is administratively feasible (that is, an adequate level of services can be provided to the eligible Indians residing in the area.);

(2) No duplication of services exists; and

(3) A plan describing how services will be provided to all eligible Indians can be implemented.

(c) Documentation should be sent to the Regional Director or Office of Self-Governance.

The Director or office will evaluate the information and make recommendations to the Assistant Secretary. The Assistant Secretary can make a determination to approve or disapprove and publish notice of the designation of service area and the Indians to be served in the **Federal Register**. Tribes currently providing services are not required to request designation for service areas unless they make a decision to modify their existing service areas.

§ 20.202 What is a tribal redesign plan?

If you are a tribe administering a general assistance program, you can develop and submit to us a tribal redesign plan to change the way that you administer the program.

(a) A tribal redesign plan allows a tribe to:

(1) Change eligibility for general assistance in the service area; or

(2) Change the amount of general assistance payments for individuals within the service area.

(b) If you develop a tribal redesign plan it must:

(1) Treat all persons in the same situation equally; and

(2) Will not result in additional expenses for the Bureau solely because of any increased level of payments.

§ 20.203 Can a tribe incorporate assistance from other sources into a tribal redesign plan?

Yes, when a tribe redesigns its general assistance program, it may include assistance from other sources (such as Public Law 102–477 federal funding sources) in the plan.

§ 20.204 Must all tribes submit a tribal redesign plan?

No, you must submit a tribal redesign plan under § 20.206 only if you want to change the way that the General Assistance program operates in your service area.

§ 20.205 Can tribes change eligibility criteria or levels of payments for General Assistance?

Yes, if you have a redesign plan, you can change eligibility criteria or levels of payment for general assistance.

(a) The funding level for your redesigned general assistance program will be the same funding received in the most recent fiscal or calendar year, whichever applies.

(b) If you do not have a prior year level of funding, the Bureau or Office of Self-Governance will establish a tentative funding level based upon best estimates for caseload and expenditures.

(c) A Bureau servicing office can administer a tribal redesign plan as requested by a tribal resolution.

§ 20.206 Must a tribe get approval for a tribal redesign plan?

If you have a Public Law 93–638 contract or receive direct services from us, you must obtain our approval before implementing a redesign plan. You can apply for approval to the Regional Director or through the Bureau servicing office.

(a) You must submit your redesign plan for approval at least 3 months before the effective date.

(b) If you operate with a self-governance annual funding agreement, you must obtain the approval of the redesign from the Office of Self-Governance.

(c) If you operate with a Public Law 102–477 grant, you must obtain approval from the Bureau Central Office.

§ 20.207 Can a tribe use savings from a tribal redesign plan to meet other priorities of the tribe?

Yes, you may use savings from a redesign of the general assistance program to meet other priorities.

§ 20.208 What if the tribal redesign plan leads to increased costs?

The tribe must meet any increase in cost to the General Assistance program that results solely from tribally increased payment levels due to a redesign plan.

§ 20.209 Can a tribe operating under a tribal redesign plan go back to operating under this part?

Yes, a tribe operating under a tribal redesign plan can choose to return to operation of the program as provided in §§ 20.300 through 20.323.

§ 20.210 Can eligibility criteria or payments for Burial Assistance, Child Assistance, and Disaster Assistance and Emergency Assistance change?

No, unless otherwise provided by law, the Bureau nor a tribe may change eligibility criteria or levels of payment for Burial Assistance, Child Assistance, Disaster Assistance, and Emergency Assistance awarded in Public Law 93–638 contracts, Public Law 102–477 grants, or Public Law 103–413 self-governance annual funding agreements.

Subpart C—Direct Assistance

Eligibility for Direct Assistance

§ 20.300 Who qualifies for Direct Assistance under this subpart?

To be eligible for assistance or services under this part, an applicant must meet all of the following criteria:

(a) Be a member of an Indian tribe;

(b) Not have sufficient resources to meet the essential need items defined by the Bureau standard of assistance for those Bureau programs providing financial payment;

(c) Reside in the service area as defined in § 20.100; and

(d) Meet the additional eligibility criteria for each of the specific programs of financial assistance or social services in §§ 20.301 through 20.516.

§ 20.301 What is the goal of General Assistance?

The goal of the General Assistance program is to increase self-sufficiency. Each General Assistance recipient must work with the social services worker to develop and sign an Individual Self-Sufficiency Plan (ISP). The plan must outline the specific steps the individual will take to increase independence by meeting the goal of employment.

§ 20.302 Are Indian applicants required to seek assistance through Temporary Assistance for Needy Families?

Yes, all Indian applicants with dependent children are required to apply for Temporary Assistance for Needy Families (TANF) and follow TANF regulations.

§ 20.303 When is an applicant eligible for General Assistance?

To be eligible for General Assistance an applicant must:

(a) Meet the criteria contained in § 20.300;

(b) Apply concurrently for financial assistance from other state, tribal, county, local, or other federal agency programs for which he/she is eligible;

(c) Not receive any comparable public assistance; and

(d) Develop and sign an employment strategy in the ISP with the assistance of the social services worker to meet the goal of employment through specific action steps including job readiness and job search activities.

§ 20.304 When will the Bureau review eligibility for General Assistance?

The Bureau will review eligibility for General Assistance:

(a) Every 3 months for individuals who are not exempt from seeking or accepting employment in accordance with § 20.315 or the ISP;

(b) Every 6 months for all recipients; and

(c) Whenever there is a change in status that can affect a recipient's eligibility or amount of assistance. Recipients must immediately inform the social services office of any such changes.

§ 20.305 What is redetermination?

Redetermination is an evaluation by a social services worker to assess the need for continued financial assistance as outlined in § 20.304. It includes:

(a) A home visit;

(b) An estimate of income, living circumstances, household composition for the month(s) for which financial assistance is to be provided; and

(c) Appropriate revisions to the case plan and the ISP.

§ 20.306 What is the payment standard for General Assistance?

(a) Under Public Law 104–193, the Bureau must use the same TANF payment standard (and any associated rateable reduction) that exists in the state or service area where the applicant or recipient resides. This payment standard is the amount from which the Bureau subtracts net income and resources to determine General Assistance eligibility and payment levels;

(b) If the state does not have a standard for an adult, we will use either the difference between the standard for a child and the standard for a household of two, or one-half of the standard for a household of two, whichever is greater; and

(c) If the state does not have a TANF program, we will use the AFDC payment standard which was in effect on September 30, 1995, in the State where the applicant or recipient resides.

Determining Need and Income

§ 20.307 What resources does the Bureau consider when determining need?

When the Bureau determines General Assistance eligibility and payment levels, we consider income and other resources as specified in §§ 20.308 and 20.309.

(a) All income, earned or unearned, must be calculated in the month it is received and as a resource thereafter, except that certain income obtained from the sale of real or personal property may be exempt as provided in § 20.309.

(b) Resources are considered to be available when they are converted to cash.

§ 20.308 What does earned income include?

Earned income is cash or any in-kind payment earned in the form of wages, salary, commissions, or profit, from activities by an employee or self-employed individual. Earned income includes:

(a) Any one-time payment to an individual for activities which were sustained over a period of time (for example, the sale of farm crops, livestock, or professional artists producing art work); and

(b) With regard to self-employment, total profit from a business enterprise (i.e., gross receipts less expenses incurred in producing the goods or services). Business expenses do not include depreciation, personal business and entertainment expenses, personal transportation, capital equipment purchases, or principal payments on loans for capital assets or durable goods.

§ 20.309 What does unearned income include?

Unearned income includes, but is not limited to:

(a) Income from interest; oil and gas and other mineral royalties; gaming income per capita distributions; rental property; cash contributions, such as child support and alimony, gaming winnings; retirement benefits;

(b) Annuities, veteran's disability, unemployment benefits, and federal and state tax refunds;

(c) Per capita payments not excluded by federal statute;

(d) Income from sale of trust land and real or personal property that is set aside for reinvestment in trust land or a primary residence, but has not been reinvested in trust land or a primary residence at the end of one year from the date the income was received;

(e) In-kind contributions providing shelter at no cost to the individual or household, this must equal the amount for shelter included in the state standard, or 25 percent of the state standard, whichever is less; and

(f) Financial assistance provided by a state, tribal, county, local, or other federal agency.

§ 20.310 What recurring income must be prorated?

The social services worker will prorate the following recurring income:

(a) Recurring income received by individuals over a 12-month period for less than a full year's employment (for example, income earned by teachers who are not employed for a full year);

(b) Income received by individuals employed on a contractual basis over the term of a contract; and

(c) Intermittent income received quarterly, semiannually, or yearly over the period covered by the income.

§ 20.311 What amounts will the Bureau deduct from earned income?

(a) The social services worker will deduct the following amounts from earned income:

(1) Other federal, state, and local taxes;

(2) Social Security (FICA);

(3) Health insurance;

(4) Work related expenses, including reasonable transportation costs;

(5) Child care costs for children under the age of 6 except where the other parent in the home is unemployed and physically able to care for the children; and

(6) The cost of special clothing, tools, and equipment directly related to the individual's employment.

(b) For self-employed individuals, the social services worker will deduct the costs of conducting business and all of the amounts in paragraph (a) of this section.

§ 20.312 What amounts will the Bureau deduct from income or other resources?

The social services worker will deduct the following amounts from income, or other resources:

(a) The first $2,000 of liquid resources annually available to the household;

(b) Any home produce from a garden, livestock, and poultry used by the applicant or recipient and his/her household for their consumption; and

(c) Resources specifically excluded by federal statute.

§ 20.313 How will the Bureau compute financial assistance payments?

(a) The social services worker will compute financial assistance payments by beginning with the Bureau standard of assistance and doing the following:

(1) Subtracting from all resources calculated under §§ 20.307 through 20.310;

(2) Subtracting the rateable reduction or maximum payment level used by the state where the applicant lives;

(3) Subtracting an amount for shelter (see paragraph (b) of this section for details on how to calculate a shelter amount); and

(4) Rounding the result down to the next lowest dollar.

(b) The social services worker must calculate a shelter amount for purposes of paragraph (a)(3) of this section. To calculate the shelter amount:

(1) The shelter amount must not exceed the amount for shelter in the state TANF standard;

(2) If the state TANF does not specify an amount for shelter, the social services worker must calculate the amount as 25 percent of the total state TANF payment; and

(3) If there is more than one household in a dwelling, the social services worker must prorate the actual shelter cost among the households receiving General Assistance; this amount cannot exceed the amount in the standard for individuals in similar circumstances. The head of each household is responsible for his/her portion of the documented shelter cost.

(c) The social services worker must not provide General Assistance payments for any period before the date of the application for assistance.

Employment Requirements

§ 20.314 What is the policy on employment?

(a) An applicant or recipient must:

(1) Actively seek employment, including the use of available state, tribal, county, local or Bureau-funded employment services;

(2) Make satisfactory progress in an ISP; and

(3) Accept local and seasonable employment when it is available.

(b) A head of household who does not comply with this section will not be eligible for General Assistance for a period of at least 60 days but not more than 90 days. This action must be documented in the case file.

(c) The policy in this section does not apply to any person meeting the criteria in § 20.315.

§ 20.315 Who is not covered by the employment policy?

The employment policy in § 20.314 does not apply to the persons shown in the following table.

The employment policy in §20.314 does not apply to . . .	if . . .	and . . .
(a) Anyone younger than 16.		
(b) A full-student under the age of 19	He/she is attending an elementary or secondary school or a vocational or technical school equivalent to a secondary school.	He/she is making satisfactory progress.
(c) A person enrolled at least half-time in a program of study under Section 5404 of Pub. L. 100–297.	He/she is making satisfactory progress	He/she was an active General Assistance recipient for a minimum of 3 months before determination/redetermination of eligibility.
(d) A person suffering from a temporary medical injury or illness.	It is documented in the case plan that the illness or injury is serious enough to temporarily prevent employment.	He/she must be referred to SSI if the disability status exceeds 3 months.
(e) An incapacitated person who has not yet received Supplemental Security Income (SSI) assistance.	A physician, psychologist, or social services worker certifies that a physical or mental impairment (either by itself, or in conjunction with age) prevents the individual from being employed.	The assessment is documented in the case plan.
(f) A caretaker who is responsible for a person in the home who has a physical or mental impairment.	A physician or certified psychologist verifies the condition.	The case plan documents that: the condition requires the caretaker to be home on a virtually continuous basis; and there is no other appropriate household member available to provide this care.
(g) A parent or other individual who does not have access to child care.	He/she personally provides full-time care to a child under the age of 6.	
(h) A person for whom employment is not accessible.	There is a minimum commuting time of one hour each way.	

§ 20.316 What must a person covered by the employment policy do?

(a) If you are covered by the employment policy in § 20.314, you must seek employment and provide evidence of your monthly efforts to obtain employment in accordance with your ISP.

(b) If you do not seek and accept available local and seasonal employment, or you quit a job without good cause, you cannot receive General Assistance for a period of at least 60 days but not more than 90 days after you refuse or quit a job.

§ 20.317 How will the ineligibility period be implemented?

(a) If you refuse or quit a job, your ineligibility period will continue as provided in § 20.316(b) until you seek and accept appropriate available local and seasonal employment and fulfill your obligations already agreed to in the ISP;

(b) The Bureau will reduce your suspension period by 30 days when you show that you have sought local and seasonal employment in accordance with the ISP; and

(c) Your eligibility suspension will affect only you. The Bureau will not apply it to other eligible members of the household.

§ 20.318 What case management responsibilities does the social services worker have?

In working with each recipient, you, the social services worker must:

(a) Assess the general employability of the recipient;

(b) Assist the recipient in the development of the ISP;

(c) Sign the ISP;

(d) Help the recipient identify the service(s) needed to meet the goals identified in their ISP;

(e) Monitor recipient participation in work related training and other employment assistance programs; and

(f) Document activities in the case file.

§ 20.319 What responsibilities does the general assistance recipient have?

In working with the social services worker, you, the recipient, must:

(a) Participate with the social services worker in developing an ISP and sign the ISP;

(b) Perform successfully in the work related activities, community service, training and/or other employment assistance programs developed in the ISP;

(c) Participate successfully in treatment and counseling services identified in the ISP;

(d) Participate in evaluations of job readiness and/or any other testing required for employment purposes; and

(e) Demonstrate that you are actively seeking employment by providing the social services worker with evidence of job search activities as required in the ISP.

Tribal Work Experience Program (TWEP)

§ 20.320 What is TWEP?

TWEP is a program that provides work experience and job skills to enhance potential job placement for the general assistance recipient. TWEP programs can be incorporated within Public Law 93–638 self-determination contracts, Public Law 102–477 grants, and Public Law 103–413 self-governance annual funding agreements at the request of the tribe.

§ 20.321 Does TWEP allow an incentive payment?

Yes, incentive payments to participants are allowed under TWEP.

(a) Incentive payments are separate. The Bureau will not consider incentive payments as wages or work related expenses, but as grant assistance payments under §§ 20.320 through 20.323.

(b) The approved payment will not exceed the Bureau maximum TWEP payment standard established by the Assistant Secretary.

§ 20.322 Who can receive a TWEP incentive payment?

(a) The head of the family unit normally receives the TWEP assistance payment.

(b) The social services worker can designate a spouse or other adult in the assistance group to receive the TWEP assistance payment. The social services worker will do this only if:

(1) The recognized head of the family unit is certified as unemployable; and

(2) The designation is consistent with the ISP.

(c) Where there are multiple family units in one household, one member of each family unit will be eligible to receive the TWEP incentive payment.

§ 20.323 Will the local TWEP be required to have written program procedures?

Yes, the local TWEP must have specific written program procedures that cover hours of work, acceptable reasons for granting leave from work, evaluation criteria and monitoring plans and ISP's for participants. Work readiness progress must be documented in each ISP.

Burial Assistance

§ 20.324 When can the Bureau provide Burial Assistance?

In the absence of other resources, the Bureau can provide Burial Assistance for eligible indigent Indians meeting the requirements prescribed in § 20.300.

§ 20.325 Who can apply for Burial Assistance?

If you are a relative of a deceased Indian, you can apply for burial assistance for the deceased Indian under this section.

(a) To apply for burial assistance under this section, you must submit the application to the social services worker. You must submit this application within 30 days following death.

(b) The Bureau will determine eligibility based on the income and resources available to the deceased in accordance with § 20.100. This includes but is not limited to SSI, veterans' death benefits, social security, and Individual Indian Money (IIM) accounts. Determination of need will be accomplished on a case-by-case basis using the Bureau payment standard.

(c) The Bureau will not approve an application unless it meets the criteria specified at § 20.300.

(d) The approved payment will not exceed the Bureau maximum burial payment standard established by the Assistant Secretary.

§ 20.326 Does Burial Assistance cover transportation costs?

Transportation costs directly associated with burials are normally a part of the established burial rate. If a provider adds an additional transportation charge to the burial rate because of extenuating circumstances, the social services worker can pay the added charge. To do this, the social services worker must ensure and document in the case plan that:

(a) The charges are reasonable and equitable;

(b) The deceased was an eligible indigent Indian who was socially, culturally, and economically affiliated with his or her tribe; and

(c) The deceased resided in the service area for at least the last 6 consecutive months of his/her life.

Disaster Assistance

§ 20.327 When can the Bureau provide Disaster Assistance?

Disaster assistance is immediate and/or short-term relief from a disaster and can be provided to a tribal community in accordance with § 20.328.

§ 20.328 How can a tribe apply for Disaster Assistance?

(a) The tribe affected by the disaster is considered the applicant and must submit the following to the Regional Director through the local Superintendent:

(1) A tribal resolution requesting disaster assistance;

(2) A copy of county, state, or Presidential declaration of disaster; and

(3) The projected extent of need in the service area not covered by other federal funding sources.

(b) The Regional Director must forward the above tribal documents and his/her recommendation to the Assistant Secretary for final decision on whether disaster assistance will be provided and to what extent.

Emergency Assistance

§ 20.329 When can the Bureau provide Emergency Assistance payments?

Emergency Assistance payments can be provided to individuals or families who suffer from a burnout, flood, or other destruction of their home and loss or damage to personal possessions. The Bureau will make payments only for essential needs and other non-medical necessities.

§ 20.330 What is the payment standard for Emergency Assistance?

The approved payment will not exceed the Bureau's maximum Emergency Assistance payment standard established by the Assistant Secretary.

Adult Care Assistance

§ 20.331 What is Adult Care Assistance?

Adult care assistance provides non-medical care for eligible adult Indians who:

(a) Have needs that require personal care and supervision due to advanced age, infirmity, physical condition, or mental impairments; and

(b) Cannot be cared for in their own home by family members.

§ 20.332 Who can receive Adult Care Assistance?

An adult Indian is eligible to receive adult care assistance under this part if he/she:

(a) Is unable to meet his/her basic needs, including non-medical care and/or protection, with his/her own resources; and

(b) Does not require intermediate or skilled nursing care.

§ 20.333 How do I apply for Adult Care Assistance?

To apply for adult care assistance, you or someone acting on your behalf must submit an application form to the social services worker.

§ 20.334 What happens after I apply?

(a) The Bureau will determine eligibility based upon the income and available resources of the person named in the application.

(b) Upon approval by the social services worker, payments will be approved under purchase of service agreements for adult care provided in state or tribally licensed or certified group settings, or by individual service providers licensed or certified for homemaker service.

§ 220.335 What is the payment standard for Adult Care Assistance?

The approved payment for adult care assistance will not exceed the applicable state payment rate for similar care.

Subpart D—Services to Children, Elderly, and Families

§ 20.400 Who should receive Services to Children, Elderly, and Families?

Services to Children, Elderly, and Families will be provided for Indians meeting the requirements prescribed in § 20.300 who request these services or on whose behalf these services are requested.

§ 20.401 What is included under Services to Children, Elderly, and Families?

Services to Children, Elderly, and Families include, but are not limited to, the following:

(a) Assistance in solving problems related to family functioning and interpersonal relationships;

(b) Referral to the appropriate resource for problems related to illness, physical or mental handicaps, drug abuse, alcoholism, and violation of the law; and

(c) Protective services.

In addition, economic opportunity and money management may also be provided.

§ 20.402 When are protective services provided?

Protective services are provided when children or adults:

(a) Are deprived temporarily or permanently of needed supervision by responsible adults;

(b) Are neglected, abused or exploited;

(c) Need services when they are mentally or physically handicapped or otherwise disabled; or

(d) Are under the supervision of the Bureau in regard to the use and disbursement of funds in the child's or adult's Individual Indian Money (IIM) account. Those IIM accounts that are established for children will be supervised by the Bureau until the child becomes an adult as defined in 25 CFR 115.

§ 20.403 What do protective services include?

Protective services provided to a child, family or elderly person will be documented in the case files and:

(a) Can include, but are not limited to, any of the following:

(1) Providing responses to requests from members of the community on behalf of children or adults alleged to need protective services;

(2) Providing services to children, elderly, and families, including referrals for homemaker and day care services for the elderly and children;

(3) Coordinating with Indian courts to provide services, which may include, but are not limited to, the following:

(i) Investigating and reporting on allegations of child abuse and neglect, abandonment, and conditions that may require referrals (such as mental or physical handicaps);

(ii) Providing social information related to the disposition of a case, including recommendation of alternative resources for treatment; and

(iii) Providing placement services by the court order before and after adjudication.

(4) Coordinating with other community services, including groups, agencies, and facilities in the community. Coordination can include, but are not limited to:

(i) Evaluating social conditions that affect community well-being;

(ii) Treating conditions identified under paragraph (d)(1) of this section that are within the competence of social services workers; and

(iii) Working with other community agencies to identify and help clients to use services available for assistance in solving the social problems of individuals, families, and children.

(5) Coordinating with law enforcement and tribal courts, to place the victim of an alleged and/or substantiated incident of abuse, neglect or exploitation out of the home to assure safety while the allegations are being investigated. Social services workers may remove individuals in life threatening situations. After a social services assessment, the individual must be either returned to the parent(s) or to the home from which they were removed or the social services worker must initiate other actions as provided by the tribal code; and

(6) Providing social services in the home, coordinating and making referrals to other programs/services, including Child Protection, and/or establishing Multi-Disciplinary Teams.

(b) Must include, where the service population includes IIM account holders:

(1) Conducting, upon the request of an account holder or other interested party, a social services assessment to evaluate an adult account holder's circumstances and abilities and the extent to which the account holder needs assistance in managing his or her financial affairs; and

(2) Managing supervised IIM accounts of children and adults (in conjunction with legal guardians), which includes, but is not limited to, the following:

(i) Evaluating the needs of the account holder;

(ii) Developing, as necessary and as permitted under 25 CFR 115, a one-time or an annual distribution plan for funds held in an IIM account along with any amendments to the plan for approval by the Bureau;

(iii) Monitoring the implementation of the approved distribution plan to ensure that the funds are expended in accordance with the distribution plan;

(iv) Reviewing the supervised account every 6 months or more often as necessary if conditions have changed to warrant a recommendation to change the status of the account holder, or to modify the distribution plan;

(v) Reviewing receipts for an account holder's expenses and verifying that expenditures of funds from a supervised IIM account were made in accordance with the distribution plan approved by the Bureau, including any amendments made to the plan; and

(vi) Petitioning a court of competent jurisdiction for the appointment of, or change in, a legal guardian for a client, where appropriate.

§ 20.404 What information is contained in a social services assessment?

A social services assessment must contain, but is not limited to, the following:

(a) Identifying information about the client (for example, name, address, age, gender, social security number, telephone number, certificate of Indian blood, education level), family history and medical history of the account holder;

(b) Description of the household composition: information on each member of the household (e.g., name, age, and gender) and that person's relationship to the client;

(c) The client's current resources and future income (e.g., VA benefits, retirement pensions, trust assets, employment income, judgment funds, general assistance benefits, unemployment benefits, social security income, supplemental security income and other governmental agency benefits);

(d) A discussion of the circumstances which justify special services, including ability of the client to handle his or her financial affairs and to conduct day-to-day living activities. Factors to be considered should include, but are not limited to:

(1) Age;

(2) Developmental disability;

(3) Chronic alcoholism or substance abuse;

(4) Lack of family assistance or social support systems, or abandonment;

(5) Self-neglect;

(6) Financial exploitation or abuse;

(7) Physical exploitation, neglect or abuse;

(8) Senility; and

(9) Dementia.

(e) Documentation supporting the need for assistance (e.g., medical reports, police reports, court orders, letters from interested parties, prior assessments or evaluations, diagnosis by psychologist/psychiatrist); and

(f) Summary of findings and proposed services to meet the identified needs of the client.

Subpart E—Child Assistance

§ 20.500 Who is eligible for Child Assistance?

A child is eligible for Child Assistance under this subpart if all of the following criteria are met:

(a) The child must meet the requirements in § 20.300.

(b) The child's legally responsible parent, custodian/guardian, or Indian court having jurisdiction must:

(1) Request assistance under this part in writing;

(2) State that they are unable to provide necessary care and guidance for the child, or to provide for the child's special needs in his/her own home; and

(3) Provide a documented social services assessment from the social services worker of whether parent(s), custodian, guardian(s) are able to care for their child.

(c) All income accruing to the child, except income exempted by federal statute, must be used to meet the cost of special needs, foster home or residential care facility as authorized and arranged by social services.

How Child Assistance Funds Can Be Used

§ 20.501 What services can be paid for with Child Assistance funds?

The social services program can use Child Assistance funds to pay for services as shown in the following table.

Service that can be paid	Conditions that must be met	Maximum payment level
(a) Room and board at residential care facilities licensed by the tribe or state.	There must be no other resources available to pay these costs. See § 20.502 for other conditions that must be met.	The state or county residential care rate in the state in which the child resides.
(b) Adoption or guardianship subsidies	There must be no other resources available to pay for this service. See § 20.503 for other conditions that must be met.	The Bureau's maximum adoption and guardianship payment standard.
(c) Short-term homemaker services	There must be no other resources (such as Medicaid) available to pay for this service. Services can be purchased for a maximum of 3 months. See § 20.504 for other conditions that must be met.	As approved by the Bureau line officer.
(d) Temporary foster care	See § 20.509 for conditions that must be met	The state or county foster care rate in the state in which the child resides.

§ 20.502 Can Child Assistance funds be used to place Indian children in residential care facilities?

You, the social service program, can use Child Assistance funds to purchase or contract for room and board in licensed residential care facilities.

(a) You can use Child Assistance funds to pay only for room and board. You must pay for other services that may be needed, including mental health, education, and physical therapy from other sources.

(b) Before placement the various funding sources must sign an agreement that specifies the services each source will pay. The Bureau Line Officer must approve this agreement.

§ 20.503 When can Child Assistance funds be used for Indian adoption or guardianship subsidies?

You, the social services program, can use Child Assistance funds to provide either adoption or guardianship subsidies if all of the following are true:

(a) The child is 17 or younger;

(b) The child has been in foster care prior to approval of the subsidy;

(c) The social services worker has considered all other available resources, attempted permanency planning, and documented in the case file that placement was in the best interest of the child; and

(d) The Bureau Line Officer approves the subsidy before it is authorized and redetermines eligibility on a yearly basis.

§ 20.504 What short-term homemaker services can Child Assistance pay for?

You, the social services program, can use Child Assistance funds to pay for homemaker services as specified in § 20.501 and this section. While housekeeping services are covered, homemaker services must focus on training household members in such skills as child care and home management. Homemaker services are provided for:

(a) A child who would otherwise need foster care placement or who would benefit from supportive (protective) supervision;

(b) A severely handicapped or special needs child whose care places undue stress on the family; or

(c) A child whose care would benefit from specialized training and supportive services provided to family members.

§ 20.505 What services are provided jointly with the Child Assistance Program?

The services listed in this section are provided by Services to Children, Elderly, and Families under this subpart jointly with the Child Assistance Program.

(a) Social services provided for children in their own home aimed at strengthening the family's ability to provide for and nurture their child. These supportive services can include:

(1) Social work case management;

(2) Counseling for parents and children;

(3) Group work, day care; and

(4) Homemaker services, when necessary.

(b) Protection of Indian children from abuse, neglect or exploitation in coordination with law enforcement and courts.

(c) A written case plan must be established within 30 days of placement and reviewed within 60 days of placement or as outlined in tribally established standards, when temporary placement outside the home is necessary. The case plan must contain a written agreement signed among the various funding sources to identify the services that will be paid by each source in those instances where the child

requires services outside the authority of the Child Assistance program.

Foster Care

§ 20.506 What information is required in the foster care case file?

At a minimum the following information is required:

(a) Tribal enrollment verification in accordance with § 20.100;

(b) A written case plan (established within 30 days of placement), which would include a permanency plan detailing the need for and expected length of placement;

(c) Information on each child's health status and school records, including medications and immunization records;

(d) Parental consent(s) for emergency medical care, school, and transportation;

(e) A signed plan for payment, including financial responsibility of parents and use of other appropriate resources;

(f) A copy of the certification/license of the foster home;

(g) A current photo of each child;

(h) A copy of the social security card, birth certificate, Medicaid card and current court order;

(i) For a placement beyond 30 days, copy of the action taken or authorized by a court of competent jurisdiction that documents the need for protection of the child;

(j) For an involuntary placement, a social services assessment completed by a social services worker within 30 days of placement;

(k) Documentation of a minimum of one visit to the placement setting per month by the social services worker with each child; and

(l) A list of all prior placements, including the names of the foster parents and dates of placements.

§ 20.507 What requirements must foster care providers meet?

If a child needs foster care, the social services worker must select care that meets the physical, behavioral, and emotional needs of the child. Foster care is intended to be short-term. The case plan must show that all of the requirements in paragraphs (a) through (c) of this section are met:

(a) All foster homes must be certified or licensed by the tribe or other appropriate authority. Foster care placements beyond 30 days must be made through a court of competent jurisdiction to ensure that:

(1) Federal background checks are completed prior to placement as required by Public Law 101–630; and

(2) Training (optional for placements with relatives) is provided to the foster family.

(b) If the child is placed with relatives in an adoption and guardian placement, the case file must contain an approved current home study.

(c) An off-reservation foster home, or residential care facility under contract must meet the licensing standards of the state in which it is located or tribally established certifying/licensing standards.

§ 20.508 What must the social services agency do when a child is placed in foster care, residential care or guardianship home?

The social services agency must make efforts to secure child support for the child in foster care or residential care through a court of competent jurisdiction.

§ 20.509 What must the social services worker do when a child is placed in foster care or residential care facility?

When a child is placed in foster care or a residential care facility the social services worker must do all of the following:

(a) Discuss with foster parents or caretakers, the child's special needs, including disabilities;

(b) Provide counseling or referral to available resources;

(c) Refer any child requiring medical, substance abuse, or behavioral (mental) health services to an appropriate health services to be assessed and to receive services;

(d) Ensure that the case plan provides for all necessary costs of care (including clothing, incidentals, and personal allowance) in accordance with established state standards of payments;

(e) Develop a foster family agreement signed and dated by the parties involved that specifies the roles and responsibilities of the biological parents, foster parents, and placing agency; the terms of payment of care; and the need for adherence to the established case plan;

(f) Immediately report any occurrences of suspected child abuse or neglect in a foster home or residential care facility to law enforcement and protective services in accordance with tribal standards and reporting requirements under Public Law 101–630; and

(g) Complete a yearly assessment of each tribal or state licensed foster home or residential care facility evaluating how the home has fulfilled its function relative to the needs of the child placed in the home.

§ 20.510 How is the court involved in child placements?

The court retains custody of a child in placement and the care and supervision must be given to the appropriate social services agency. While the court can issue any court order consistent with tribal law, the courts do not have the authority to require expenditure of federal funds to pay for specifically prescribed or restrictive services or out-of-home placements of children. Case plans must be reviewed with the appropriate court at least every 6 months and a permanency hearing held within 12 months after a child enters foster care or residential care, or according to established tribal standards. These standards can be established in the tribal code and can be in accordance with available funding source requirements.

§ 20.511 Should permanency plans be developed?

Permanency planning must be developed for all child placements within 6 months after initial placement of the child. Every reasonable effort will be made to preserve the family and/or reunify the children with the family and relatives when developing permanency plans. However, the child's health and safety are the paramount concern.

§ 20.512 Can the Bureau/tribal contractors make Indian adoptive placements?

The Bureau is not an authorized adoption agency and staff must not arrange adoptive placements. However, long-term permanency planning can involve the Bureau social services workers cooperating with tribal courts to provide an adoption subsidy. Tribal contractors will provide adoption services as authorized by the tribal courts in accordance with tribal codes/law.

§ 20.513 Should Interstate Compacts be used for the placement of children?

Interstate compact agreements should be used when appropriate for foster care, adoption and guardianship to protect the best interests of the child and to assure the availability of the funding resources and services from the originating placement source.

§ 20.514 What assistance can the courts request from social services on behalf of children?

The courts can request the following:

(a) Investigations of law enforcement reports of child abuse and neglect;

(b) Assessment of the need for out-of-home placement of the child; and

(c) Provision of court-related services following adjudication, such as monitoring, foster care, or residential care, or pre/post placement services.

§ 20.515 What is required for case management?

Social services workers must document regular contact with children and families in accordance with specific program requirements. The social services agency is responsible for implementation of quality case management; this requires the supervisor's review of case plans every 90 days.

§ 20.516 How are child abuse, neglect or exploitation cases to be handled?

Reported child abuse, neglect or exploitation cases and the requirement for background clearances will be handled in accordance with the Indian Child Protection and Family Violence Prevention Act of 1990, Public Law 101–630, 25 CFR part 63, federal and/or state laws where applicable, and tribal codes which protect Indian children and victims of domestic violence. This includes developing and maintaining Child Protection Teams in accordance to Public Law 101–630 and collection of child abuse, neglect and exploitation data according to Public Law 99–570. Those cases referred by the state will be handled according to the Indian Child Welfare Act, Public Law 95–608, and 25 CFR part 23.

Subpart F—Administrative Procedures

§ 20.600 Who can apply for financial assistance or social services?

(a) You can apply for financial assistance or social services under this part if you:

(1) Believe that you are eligible to receive benefits; or

(2) Are applying on behalf of someone who you believe is eligible to receive benefits.

(b) Under paragraph (a) of this section, any of the following may apply for benefits on behalf of another person: relatives, interested individuals, social services agencies, law enforcement agencies, courts, or other persons or agencies.

§ 20.601 How can applications be submitted?

You can apply for financial assistance or social services under this part by:

(a) Completing an application that you can get from your social services worker or tribe; or

(b) Through an interview with a social services worker who will complete an application for you based on the oral interview.

§ 20.602 How does the Bureau verify eligibility for social services?

(a) You, the applicant, are the primary source of information used to determine eligibility and need. If it is necessary to secure information such as medical records from other sources, you must authorize the release of information.

(b) You must immediately report to your social services worker any changes in circumstances that may affect your eligibility or the amount of financial assistance that you receive.

§ 20.603 How is an application approved or denied?

(a) Each application must be approved if the applicant meets the eligibility criteria in this part for the type of assistance requested. Financial assistance will be made retroactive to the application date.

(b) An application must be denied if the applicant does not meet the eligibility criteria in §§ 20.300 through 20.516.

(c) The Superintendent must approve or deny an application within 30 days of the application date. The local social services worker must issue written notice of the approval or denial of each application within 45 days of the application date.

(d) If for a good reason the Superintendent cannot meet the deadline in paragraph (c) of this section, he or she must notify the applicant in writing of:

(1) The reasons why the decision cannot be made; and

(2) The deadline by which the Superintendent will send the applicant a decision.

§ 20.604 How is an applicant or recipient notified that benefits or services are denied or changed?

If the Bureau increases, decreases, suspends, or terminates financial assistance, the social services worker must mail or hand deliver to the applicant or recipient a written notice of the action. The notice must:

(a) State the action taken, the effective date, and the reason(s) for the decision;

(b) Inform the applicant or recipient of the right to request a hearing if dissatisfied with the decision;

(c) Advise the applicant or recipient of the right to be represented by an authorized representative at no expense to the Bureau;

(d) Include the address of the local Superintendent or his/her designated representative to whom the request for a hearing must be submitted;

(e) Advise the applicant or recipient that failure to request a hearing within 20 days of the date of the notice will cause the decision to become final and not subject to appeal under 25 CFR part 2; and

(f) Be delivered to the applicant 20 days in advance of the effective date of the action.

§ 20.605 What happens when an applicant or recipient appeals a decision under this subpart?

If you are an applicant or recipient and appeal a decision made under § 20.604, you can continue to receive your assistance while your appeal is pending. For this to happen, you must submit your appeal by the deadline in § 20.604(e).

§ 20.606 How is an incorrect payment adjusted or recovered?

(a) When an incorrect payment of financial assistance has been made to an individual or family, a proper adjustment or recovery is required.

(b) The proper adjustment or recovery is based upon individual need as appropriate to the circumstances that resulted in an incorrect payment.

(c) Before adjustment or recovery, the recipient will be notified of the proposal to correct the payment and given an informal opportunity to resolve the matter.

(d) If an informal resolution cannot be attained, the recipient must be given a written notice of decision and the procedures of § 20.604 will apply.

(e) If a hearing is requested, the hearing will be conducted in accordance with the procedures under §§ 20.700 through 20.705.

§ 20.607 What happens when applicants or recipients knowingly and willfully provide false or fraudulent information?

Applicants or recipients who knowingly and willfully provide false or fraudulent information are subject to prosecution under 18 U.S.C. § 1001, which carries a fine of not more than $10,000 or imprisonment for not more than 5 years, or both. The social services worker will prepare a written report detailing the information considered to be false and submit the report to the Superintendent or his/her designated representative for appropriate investigative action.

Subpart G—Hearings and Appeals

§ 20.700 Can an applicant or recipient appeal the decision of a Bureau official?

Yes, if you are an applicant or recipient, and are dissatisfied with a Bureau decision made under this part, you can request a hearing before the Superintendent or his/her designated representative. You must submit your request by the deadline in § 20.604. The Superintendent or his/her designated representative can extend the deadline if you show good cause.

§ 20.701 Does an applicant or recipient receive financial assistance while an appeal is pending?

Yes, if you appeal under this subpart, financial assistance will be continued or reinstated to insure there is no break in financial assistance until the Superintendent or his/her designated representative makes a decision. The Superintendent or his/her designated representative can adjust payments or recover overpayments to conform with his/her decision.

§ 20.702 When is an appeal hearing scheduled?

The Superintendent or his/her designated representative must set a date for the hearing within 10 days of the date of request for a hearing and give written notice to the applicant or recipient.

§ 20.703 What must the written notice of hearing include?

The written notice of hearing must include:

(a) The date, time and location of the hearing;

(b) A statement of the facts and issues giving rise to the appeal;

(c) The applicant's or recipient's right to be heard in person, or to be represented by an authorized representative at no expense to the Bureau;

(d) The applicant or recipient's right to present both oral and written evidence during the hearing;

(e) The applicant's or recipient's right to confront and cross-examine witnesses at the hearing;

(f) The applicant's or recipient's right of one continuance of not more than 10 days with respect to the date of hearing; and

(g) The applicant's or recipient's right to examine and copy, at a reasonable time before the hearing, his/her case record as it relates to the proposed action being contested.

§ 20.704 Who conducts the hearing or appeal of a Bureau decision or action and what is the process?

(a) The Superintendent or his/her designated representative conducts the hearing in an informal but orderly manner, records the hearing, and provides the applicant or recipient with a transcript of the hearing upon request.

(b) The Superintendent or his/her designated representative must render a written decision within 10 days of the completion of the hearing. The written decision must include:

(1) A written statement covering the evidence relied upon and reasons for the decision; and

(2) The applicant's or recipient's right to appeal the Superintendent or his/her designated representative's decision pursuant to 25 CFR part 2 and request Bureau assistance in preparation of the appeal.

§ 20.705 Can an applicant or recipient appeal a tribal decision?

Yes, the applicant or recipient must pursue the appeal process applicable to the Public Law 93–638 contract, Public Law 102–477 grant, or Public Law 103–413 self-governance annual funding agreement. If no appeal process exists, then the applicant or recipient must pursue the appeal through the appropriate tribal forum.

Dated: October 12, 2000.

Kevin Gover,

Assistant Secretary—Indian Affairs.

[FR Doc. 00–26703 Filed 10–19–00; 8:45 am]

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Federal Register

Friday,
October 20, 2000

Part IV

Environmental Protection Agency

Triphenyltin Hydroxide; Proposed Determination To Terminate Special Review; Notice

ENVIRONMENTAL PROTECTION AGENCY

[OPP–30000/42A; FRL–6496–3]

Triphenyltin Hydroxide; Proposed Determination To Terminate Special Review

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed Determination to Terminate Special Review.

SUMMARY: This Notice sets forth EPA's preliminary determination regarding the continued registration of pesticide products containing triphenyltin hydroxide (TPTH) and sets forth the Agency's assessment of the risks and benefits associated with pesticidal uses of TPTH. On January 9, 1985, the Agency issued a Notice of Special Review of pesticide products containing triphenyltin hydroxide based on developmental toxicity (teratogenicity) concerns (50 FR 1107). Although not a subject of the Special Review, the Agency also cited concerns for reproductive toxicity, carcinogenicity, immunotoxicity, inhalation toxicity and adverse effects to non-target organisms in the Position Document 1. Due to voluntary actions by the registrants that have reduced worker exposure to TPTH, as well as additional data that refine the risk assessment, EPA has determined that the risks of using TPTH are substantially lower than when the Special Review was initiated in 1985. This Notice proposes to terminate the triphenyltin hydroxide Special Review based on the Agency's determination that the benefits of TPTH use outweigh the risks.

DATES: Comments, data and information relevant to the Agency's proposed decision, identified by the docket control number [OPP–30000/42A], must be received on or before November 20, 2000.

ADDRESSES: Comments may be submitted by mail, electronically, or in person. Please follow the detailed instructions for each method as provided in Unit I. of the **SUPPLEMENTARY INFORMATION.** To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30000/42A in the subject line on the first page of your response.

FOR FURTHER INFORMATION CONTACT: Phil Budig, Special Review and Reregistration Division (7508C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Telephone (703) 308–8029; e-mail address: budig.phil@epa.gov.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

You may be affected by this action if you are a pesticide registrant with registered products which contain triphenyltin hydroxide as an active ingredient, or if you are an agricultural producer or a mixer, loader or applicator using products containing triphenyltin hydroxide as an active ingredient. Since other entities may also be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed under **FOR FURTHER INFORMATION CONTACT.**

B. How Can I Get Additional Information, Including Copies of Support Documents

1. *Electronically.* You may obtain electronic copies of this document, and certain other related documents that might be available electronically, from the EPA Internet Home Page at http://www.epa.gov/. To access this document, on the Home Page select ''Laws and Regulations,'' ''Regulations and Proposed Rules,'' and then look up the entry for this document under the ''**Federal Register**—Environmental Documents.'' You can also go directly to the **Federal Register** listings at http://www.epa.gov/fedrgstr/.

2. *In person.* The Agency has established an official record for this action under docket control number OPP–30000/42A. The official record consists of the documents specifically referenced in this action, any public comments received during an applicable comment period, and other information related to this action, including any information claimed as Confidential Business Information (CBI). This official record includes the documents that are physically located in the docket, as well as the documents that are referenced in those documents. The public version of the official record does not include any information claimed as CBI. The public version of the official record, which includes printed, paper versions of any electronic comments submitted during an applicable comment period, is available for inspection in the Public Information and Records Integrity Branch (PIRIB), Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *By mail.* You may request copies of this document and supporting documents by writing to: Public Information and Records Integrity Branch, Information Resources and Services Division (7502C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. Be sure to include docket control number [OPP–30000/42A] in your request.

C. How and to Whom Do I Submit Comments?

You may submit comments through the mail, in person, or electronically. To ensure proper receipt by EPA, it is imperative that you identify docket control number OPP–30000/42A in the subject line on the first page of your response.

1. *By mail.* Submit your comments in triplicate to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

2. *In person or by courier.* Deliver your comments to: Public Information and Records Integrity Branch (PIRIB), Information Resources and Services Division (7502C), Office of Pesticide Programs (OPP), Environmental Protection Agency, Rm. 119, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA. The PIRIB is open from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The PIRIB telephone number is (703) 305–5805.

3. *Electronically.* You may submit your comments electronically by e-mail to: *''opp-docket@epa.gov,''* or you can submit a computer disk as described above. Do not submit any information electronically that you consider to be CBI. Avoid the use of special characters and any form of encryption. Electronic submissions will be accepted in WordPerfect 6.1/8.0 or ASCII file format. All comments in electronic form must be identified by docket control number OPP–30000/42A. Electronic comments may also be filed online at many Federal Depository Libraries.

D. How Should I Handle CBI That I Want to Submit to the Agency?

Do not submit any information electronically that you consider to be CBI. You may claim information that you submit in response to this document as confidential by marking any part or all of that information as CBI. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

A copy of the comment that does not contain CBI must be submitted for inclusion in the public version of the official record. Information not marked confidential will be included in the public version of the official record without prior notice.

E. What Should I Consider as I Prepare My Comments for EPA?

You may find the following suggestions helpful for preparing your comments:

- Explain your views as clearly as possible.
- Describe any assumptions you used.
- Provide copies of technical information or data that support your views.
- If you estimate potential burden or costs, explain how you arrived at the estimate you provide.
- Provide specific examples to illustrate your concerns.
- Offer alternative ways to improve the Agency's proposed action.
- Make sure to submit your comments by the deadline in this notice.
- To ensure proper receipt by EPA, be sure to identify the docket control number assigned to this action in the subject line on the first page of your response. You may also provide the name, date, and **Federal Register** citation.

II. Introduction

Triphenyltin hydroxide is most commonly sold under the trade names Super Tin®, Pro-Tex®, Photon®, and Brestan H®. TPTH is formulated both as a wettable powder in a water-soluble pack and as a flowable concentrate requiring a mechanical transfer (ground equipment applications) or closed system (aerial and chemigation applications) for mixing and loading.

Triphenyltin hydroxide was first registered as a fungicide under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) in 1971 and is a non-systemic protectant foliar fungicide currently registered for use on pecans, potatoes and sugarbeets. The fungicide was formerly registered for use on carrots, peanuts and tobacco. These uses were subsequently canceled and the appropriate tolerances were revoked. In addition to fungus control, TPTH is also registered as a suppressant of Colorado potato beetle populations on potatoes.

Triphenyltin hydroxide is classified by EPA as a Restricted Use pesticide [Ref. 1] due to acute and developmental toxicity concerns. Under section 3(d) of FIFRA this means, among other things, that only certified applicators trained for and familiar with pesticide use, or persons under their direct supervision, can use products containing TPTH.

A Special Review was initiated in 1985 to address the use of triphenyltin hydroxide and examine the developmental toxicity risk to mixers, loaders and applicators. Since the time the Special Review was initiated, the Agency has identified carcinogenicity as an endpoint of concern and the registrant has voluntarily taken actions that have reduced worker exposure to TPTH. These actions include deletion of certain uses, closed mixing/loading systems for aerial applications, addition of protective clothing requirements to labels, adoption of mechanical transfer systems for all liquid formulations, packaging of the wettable powder formulation in water soluble packets, and reduced maximum seasonal application rates. In addition, the registrant submitted additional data, including a dermal developmental toxicity study and an occupational exposure monitoring study for pecan mixer/loaders and pecan harvesters, to refine the exposure estimates for this site.

EPA has refined its risk assessments for both developmental and cancer concerns, and completed its risk/benefit analysis of TPTH. Taking into account all of the worker mitigation measures that have been adopted since the initiation of the special review, the Agency has determined that the risks of using TPTH are no longer unreasonable. Consistent with this finding, the Agency published its Reregistration Eligibility Decision (RED) for TPTH in the **Federal Register** of December 1, 1999 (64 FR 67265) (FRL–6395–3) [Ref. 2], finding all uses of registered products eligible for reregistration. As the benefits from continued use of TPTH outweigh the risks, the Agency is proposing to terminate the Special Review.

A. Legal Background

In order to obtain a registration for a pesticide under FIFRA, an applicant must demonstrate that the pesticide satisfies the statutory standard for registration. The standard requires, among other things, that the pesticide will not cause ''unreasonable adverse effects on the environment'' [FIFRA section 3(c)(5)]. The term ''unreasonable adverse effects on the environment'' means ''any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide'' [FIFRA section 2(bb)]. This standard requires a finding that the benefits of each use of the pesticide outweigh the risks of such use, when the pesticide is used in compliance with the terms and conditions of registration and in accordance with commonly recognized practices.

The burden of proving that a pesticide satisfies the statutory standard is on the proponents of registration and continues as long as the registration remains in effect. Under FIFRA section 6, the Administrator may cancel the registration of a pesticide or require modification of the terms and conditions of a registration if (s)he determines that the pesticide product causes unreasonable adverse effects to man or the environment. EPA created the Special Review process to facilitate the identification of pesticide uses that may not satisfy the statutory standard for registration and to provide a public procedure to gather and evaluate information about the risks and benefits of these uses.

A Special Review may be initiated if a pesticide meets or exceeds the risk criteria set out in the regulations at 40 CFR part 154. EPA announces that a Special Review is initiated by publishing a notice, Position Document 1 (PD 1), in the **Federal Register**. After a PD 1 is issued, registrants and other interested persons are invited to review the data upon which the review is based and to submit data and information to rebut EPA's conclusions by showing that EPA's initial determination was in error, or by showing that use of the pesticide is not likely to result in unreasonable adverse effects on human health or the environment. In addition to submitting rebuttal evidence, those interested may submit relevant information to aid in the determination of whether the economic, social and environmental benefits of the use of the pesticide outweigh the risks. After reviewing the comments received and other relevant materials obtained during the Special Review process, EPA makes a decision on the future status of registrations of the pesticide.

The Special Review process may be concluded in various ways depending upon the outcome of EPA's risk/benefit assessment. If EPA concludes that all of its risk concerns have been adequately rebutted, the pesticide registration will be maintained unchanged. If, however, all risk concerns are not rebutted, EPA will proceed to a full risk/benefit assessment for non-dietary risks. In determining whether the use of a pesticide poses risks that are greater than the benefits, EPA considers possible changes to the terms and conditions of registration that can reduce risks to the level where the benefits outweigh the risks, and it may require that such changes be made in

the terms and conditions of the registration. Alternatively, EPA may determine that no changes in the terms and conditions of a registration will adequately assure that use of the pesticide will not cause any unreasonable adverse effects. If EPA makes such a determination, it may seek cancellation, suspension, or change in classification of the pesticide's registration. This determination would be set forth in a Notice of Final Determination issued in accordance with 40 CFR 154.33.

Issuance of this Notice means that the Agency has assessed the potential adverse effects associated with the uses of triphenyltin hydroxide and has preliminarily determined that the benefits override the risks.

B. Regulatory Background

The Registration Standard for TPTH was published in September 1984 [Ref. 1]. The Standard established the restricted use classification based on concerns of acute and developmental toxicity; announced EPA's intent to initiate a Special Review based on developmental toxicity risks to workers; imposed label warnings regarding developmental toxicity and potential adverse ecological effects; established a 24-hour reentry period; and required submission of product chemistry, toxicology, residue chemistry, environmental fate, and ecological effects data.

On October 23, 1984, EPA issued a letter notifying the TPTH registrants that the Agency was concerned about developmental effects from TPTH and was considering placing the fungicide into Special Review. On January 9, 1985, the EPA issued a notice to initiate a Special Review based on potential developmental toxicity risks to mixers, loaders and applicators for registrations of products containing TPTH (50 FR 1107). This document, also referred to as Position Document 1 or PD 1, detailed the basis for the Agency's decision to initiate a Special Review. The Agency determined that all uses would be the subject of the Special Review for TPTH. The Agency had reviewed data concerning the potential adverse effects associated with uses of TPTH that indicated that TPTH produces developmental toxicity effects in laboratory animals and had determined that pesticide products containing TPTH met or exceeded the risk criterion that, under regulations then in effect, would require EPA to initiate a Special Review (40 CFR 162.11(a)(3)(ii)(B) (1975)). Current regulations in 40 CFR 154.7(a)(2) (1985), set forth a similar criterion for initiation of a Special Review by EPA. The PD 1 also noted EPA concerns for reproductive toxicity, carcinogenicity, immunotoxicity, inhalation toxicity and adverse effects to non-target organisms, however, these were not cited as grounds for initiating Special Review.

Since initiating the TPTH Special Review the Agency completed the TPTH Reregistration Eligibility Decision (RED) in November 1999. Although not triggers for Special Review, the TPTH RED assessed dietary and ecological risk, along with occupational risk. The Agency did not identify any dietary risks of concern at the time of the PD 1. However, the TPTH RED assessed dietary risks on the basis of more recent data under the Food Quality Protection Act of 1996. While the Agency found that dietary risks from food consumption were acceptable, it could not rule out the potential for dietary risk through drinking water exposures from surface water sources. This potential risk was addressed through buffer zones from water bodies to prevent TPTH run-off into surface water. With these mitigation measures in place, the Agency has determined that there is a reasonable certainty of no harm from TPTH use on sugarbeets, potatoes, and pecans [Ref. 2]. The Agency also noted in the PD 1 that TPTH is highly toxic to aquatic invertebrates, warmwater fish and estuarine/marine organisms, and moderately to highly toxic to avian species. While insufficient data on these effects were available to trigger a special review, the Registration Standard required additional studies to clarify the environmental fate and potential ecological effects of TPTH. These studies were reviewed as part of the RED. As a result of this review, the registrants amended their labels to mitigate risks to non-target organisms through reductions in the maximum seasonal use of TPTH on pecans, sugarbeets, and potatoes, as well as through a 100 foot buffer from water bodies for ground applications of TPTH, and a 300-foot buffer from water bodies for aerial applications of TPTH [Ref. 2]. This document focuses on reproductive and cancer risk to workers, as occupational risks triggered the initiation of the TPTH Special Review in 1985.

C. Summary of EPA's Proposed Action

EPA has determined that the benefits associated with the continued use of TPTH under the current terms of TPTH's registration outweigh the risks. Thus, EPA is proposing to terminate the Special Review of TPTH.

III. Summary of Toxicological Concerns

The Special Review of TPTH was initiated in 1985 because of data indicating that TPTH produces developmental toxicity effects in laboratory animals and concerns about the adequacy of the carcinogenicity assessment. The Agency's Registration Standard required additional testing to verify the potential for TPTH to induce developmental and carcinogenic effects [Ref. 1]. This section summarizes the Agency's current assessment of developmental and carcinogenic issues. [For a fuller treatment of the toxicity endpoints see Refs. 2 and 3].

A. Developmental Effects

Studies submitted in response to the Registration Standard, including studies in rabbits [Ref. 4], rats [Refs. 5, 6, 7, 8, and 9] and hamsters [Ref. 10], were reviewed and determined to be acceptable for evaluating the potential for assessing maternal and developmental effects in these three species [Ref. 3]. In a document dated January 9, 1991, the Peer Review Committee for Reproductive and Developmental Toxicity concluded that these studies establish no-observed-adverse-effect level (NOAEL) and lowest-observed-adverse-effect levels (LOAELs) for maternal and developmental effects in all three species, with the rabbit being the most sensitive [Ref. 11].

The lowest NOAEL for developmental toxicity in rabbits was established at 0.3 mg/kg/day based on decreased pup weight and the presence of unossified hyoid in the rabbit fetuses at the LOAEL of 0.9 mg/kg/day [Ref. 7]. The lowest maternal toxicity NOAEL was 0.1 mg/kg/day based on decreased maternal body weight gain in rabbits at the LOAEL of 0.3 mg/kg/day. It was noted that 2 mg/kg/day could not be tolerated in the rabbit since there were compound related resorptions to preclude fetal examinations.

Several rat studies were performed and reviewed, and some of these included postnatal development phases. The rat was less sensitive than the rabbit with a NOAEL of 1 mg/kg/day for maternal toxicity (decreased body weight gain) occurring at 2.8 mg/kg/day. The developmental NOAEL in rats was inconsistent among the several studies being either 1.0 or 2.8 mg/kg/day with a LOAEL of either 2.8 or 8 mg/kg/day since not all of the same effects in the developing fetuses were seen in each study. At higher doses there was deceased fetal weight and increased resorptions and fewer pups. The new rat developmental toxicity studies did not

show consistency in induction of hydrocephaly and hydroureter or skeletal effects. Hamsters were still less sensitive than the rabbit and rat with a NOAEL of 5.08 and 12 mg/kg/day for both maternal and developmental toxicity, with maternal body weight being affected at the LOAEL. Decreased fetal weight and viable fetuses and an increase in minor skeletal effects were noted in offspring.

Subsequent to the 1991 peer review meeting, the Agency requested a developmental toxicity study by the dermal route in rabbits since extrapolation of the rabbit oral toxicity study resulted in unacceptable margins of exposure. The dermal developmental toxicity study [Ref. 12] established a NOAEL of 3.0 mg/kg/day for both maternal and developmental toxicity since there were no effects at this level, which was the highest dose level tested.

B. Carcinogenicity

In the PD 1, the Agency indicated some concern about the carcinogenic effects of TPTH and did not consider the existing data base adequate for carcinogenicity assessment. The registrant subsequently submitted replacement rat [Ref. 13] and mouse [Ref. 14] studies.

1. *Classification of carcinogenic potential*. The Carcinogenicity Peer Review Committee (CPRC) met on November 29, 1989, to conduct a weight-of-the-evidence review of the data, including the replacement rat and mouse carcinogenicity studies and mutagenicity data. The CPRC concluded that TPTH was a B2 carcinogen with a Q_1* of 2.8 $(mg/kg/day)^{-1}$ [Ref. 15]. These conclusions were based on the following: the significant increase in fatal pituitary gland adenomas in female rats and Leydig cell tumors in male rats; and, the significantly increased incidence of hepatocellular adenomas and combined adenomas and/or carcinomas in male and female mice, a significantly increasing dose-related trend for the incidence of hepatocellular carcinomas in female mice. Other factors considered by the Peer Review Committee included: the uncommon spontaneous occurrence of hepatocellular carcinomas in female mice; an increase in tumor incidences at relatively low dose levels of TPTH; and evidence for immunotoxicity of the chemical [Ref. 15].

2. *Potency factor* (Q_1*). The CPRC revisited TPTH on March 18, 1992, to reconsider the basis for quantification of the cancer unit risk values of TPTH [Ref. 16]. This latter CPRC meeting was conducted to address the conclusion of the September 18, 1991, FIFRA Science Advisory Panel (SAP) meeting that the pituitary tumor data were equivocal, due to the high spontaneous incidence of these tumors in the female rat. The SAP also commented that the cancer dose-response quantification for pituitary tumors should consider differences in mortality.

On March 18, 1992, CPRC members agreed to support their previous conclusion that TPTH should be classified as a B2 carcinogen with the Q_1* based on fatal pituitary gland adenomas [Ref. 16]. The Committee's decision was supported by the conclusion that the pituitary gland tumors had an early onset and were fatal. Thus a Q_1* of 2.8 $(mg/kg/day)^{-1}$ was determined using the multistage Weibull (time to tumor) model because this model is considered the most appropriate when there is a significant differential in mortality. In the original Q_1*, a 2/3 scaling factor was used to extrapolate from animals to humans. The unit risk value was subsequently revised to a Q_1* of 1.83 $(mg/kg/day)^{-1}$ to reflect current Agency policy of a 3/4 interspecies scaling factor.

3. *Mutagenicity*. TPTH is not considered to have a mutagenicity/genetic toxicity concern. Most studies are negative for mutagenic/genetic toxicity effects. Although there were some apparent positive responses, other tests, particularly *in vivo*, conducted to verify the significance of the apparent studies *in vitro* were negative [Refs. 2 and 17].

C. Immunotoxicity

TPTH belongs to a class of chemicals (organotins) known to be immunotoxic. The primary treatment related effects via oral exposures are immunotoxicity as indicated by decreases in lymphocytes and immunoglobulins in rats and mice, following both subchronic and chronic exposures. To better characterize potential immunotoxic effects, the Agency has called in a special developmental immunotoxicity study as part of its reregistration eligibility decision.

D. Summary of Endpoints

The endpoints used in assessing the occupational risks for TPTH are presented in Table 1 [Ref. 18].

TABLE 1.— ENDPOINTS FOR ASSESSING OCCUPATIONAL RISKS FOR TPTH

Exposure Routes	Exposure Duration	Dose (mg/kg/day)	Effect	Study	Uncertainty Factor	Comment
Dermal	Short-term (1–7 days)	NOAEL 3.0	No effect observed at the highest dose tested	Dermal developmental toxicity (rabbit)	100	Route-specific study; MOE based on UF for inter-species (10x) extrapolation and intra-species variability (10x)
Dermal	Intermediate-term (1 week to several mos)	NOAEL 3.0	No effect observed at the highest dose tested	Dermal developmental toxicity (rabbit)	100	Route-specific study; MOE based on UF for inter-species (10x) extrapolation and intra-species variability (10x)
Inhalation	Any time period	NOAEL 0.092[a]	Death following lung lesions	Subchronic inhalation study (rat)	100	Route-specific study; MOE based on UF for inter-species (10x) extrapolation, intra-species variability (10x)
Dermal & Inhalation.	Cancer Risk	Oral Q**1*** 1.83 $mg/kg/day^{-1}$	Probable human carcinogen	Oral cancer rat and mouse studies showing pituitary, testicular, and liver tumors.	NA	A dermal absorption of 10% should be used. Based on comparison between rabbit oral and dermal studies. Inhalation absorption assumed to be 100%.

[a] Inhalation dose in mg/L was converted to mg/kg/day using the following equation: Dose (mg/kg/day) = (NOAEL (0.00034 mg/L)* Respiration rate of a young adult Wistar rat (8.46 L/hr) * Study daily exposure duration (6 hr/day)) / Body weight of a young adult Wistar rat (0.187 kg)

IV. Occupational Exposure and Risk

A. Position Document 1

In the January 1985 Notice of Special Review (PD 1), the Agency concluded that potential developmental toxicity risks to mixers, loaders and applicators for registrations of products containing triphenyltin hydroxide may result in unreasonable adverse effects. The Agency's risk analysis was limited to dermal exposure to TPTH resulting from air blast application to pecan trees, as this was the use pattern expected to generate the most exposure to workers. This analysis was based on exposure estimates derived from Agency data and assumed dermal absorption would be 100%.

When conducting the 1985 risk assessment, the Agency assumed that all workers were unprotected, wore cotton work clothes, short-sleeved shirts, long pants and no hat, gloves or respirator. Three-thousand square centimeters of the body surface was assumed to be uncovered. Applicator exposure was calculated from a linear regression correlation derived from Agency data for the air blast application to orchards. The Agency's assumptions were conservative and may have overestimated actual exposure.

The Agency estimated a typical exposure value for a mixer/loader/applicator of 0.74 mg/kg/day, based on ranges of 0.68 to 0.88 mg/kg/day, due to variations in application rates.

At the time of the PD 1, an available study on rats showed apparent hydrocephalus and hydronephrosis at all dose levels. There were, however, no data available to estimate the dermal penetration of TPTH. Since dermal exposure was the greatest single source of exposure to workers, this was an important parameter in the resulting risk. Due to the lack of dermal absorption data, the Agency calculated the risk to workers from TPTH by assuming that 100 percent of TPTH would be absorbed. Potential exposure of pesticide applicators to TPTH occurred at a level that was known to produce developmental effects in laboratory animals, thereby resulting in a highly significant developmental risk for pregnant women.

B. Label, Packaging, and Use Changes

The TPTH Task Force has voluntarily implemented measures that have reduced worker exposure to TPTH. These actions include deleting certain crops, such as carrots and peanuts [Ref. 19], requiring the use of closed cab tractors for TPTH applications and additional protective clothing. The Task Force also adopted water soluble packaging to reduce worker exposure to their wettable powder formulation, and added protective clothing requirements to product labels. The flowable concentrate formulation must be used with a mechanical transfer or closed loading system, with workers required to wear a coverall over long sleeve shirt and long pants, chemical-resistant gloves, chemical-resistant apron (when mixing, loading or cleaning), and a respirator. For workers using the wettable powder in water soluble packaging; coveralls, long-sleeve shirt, long pants, chemical-resistant gloves and a dust/mist respirator are required. To apply TPTH by airblast, applicators must wear long-sleeve shirts, long pants, shoes and socks (no gloves are required, since enclosed cabs are necessary to apply TPTH). Flaggers must also be in enclosed cabs. The current risk assessment for TPTH incorporates data submitted since the initiation of the special review as well as the risk mitigation measures put into place since 1985.

C. Refined Data

EPA required that the registrants conduct a rabbit developmental toxicity study to allow a direct determination of maternal and developmental toxicity via the dermal route. This technique provides a direct, more accurate estimate of dermal toxicity than extrapolating from the rabbit oral study to dermal exposure. In addition, the TPTH Task Force generated exposure data for pecan harvesters as no such data were available for this unusual exposure scenario (pecan harvesting involves shaking trees, sweeping pecans into rows under the trees (windrowing), and collecting pecans). The current assessment also reflects the revised Q_1* for cancer risk assessment, updated TPTH dermal absorption/penetration factor, a revised TPTH flowable concentrate exposure assessment, and monitoring data for workers mixing/loading the TPTH wettable powder in a water soluble pack formulation and harvesters re-entering pecan groves after TPTH treatment.

D. Occupational Handler Exposure Estimates

Exposures to workers mixing, loading and applying TPTH were assessed as part of the RED. Risks to flaggers were also assessed. Assessments incorporating current label conditions were conducted for both liquid and wettable powder formulations, as well as for the different application methods (ground, aerial, and chemigation) for each of the three use sites [Refs. 2 and 20].

Dermal exposure is the most significant route of exposure for TPTH. However, the Agency also assessed the potential for inhalation exposure because although inhalation is a very minor route of exposure for workers applying TPTH, subchronic inhalation studies have resulted in lung injury and death to test animals at extremely low doses. The current exposure assessment is based on data from the Pesticide Handlers Exposure Database (PHED) Version 1.1 as well as chemical-specific data from monitoring studies for mixing/loading TPTH wettable powder in a water soluble pack formulation for application to pecan groves and applying TPTH to pecans using an enclosed-cab airblast sprayer [Ref. 21]. Assumptions for the exposure assessment included:

- An average body weight of 70 kg for an adult handler was used in the inhalation and cancer assessments. A body weight of 60 kg was used in the short- and intermediate-term dermal assessments (the typical weight for a woman since the NOAEL is based on a developmental study with developmental toxicity an endpoint of concern).
- The average workday interval is 8 hours per day (e.g., the acres treated or volume of spray solution prepared in a typical day).
- The Agency assumed typical acres treated per workday as follows: 40 acres for airblast application to pecan orchards, 150 acres for groundboom application to potatoes and sugar beets, 1,000 acres for aerial application to potatoes and sugar beets, and 400 acres for aerial application to pecan orchards (this is rarely done). Since specific data were not available for private growers using chemigation for potatoes, or for flaggers during aerial application, a default estimate of 350 acres representing the Exposure Science Advisory Counsel estimate for aerial and chemigation applications in agricultural settings was used. Although a typical aerial application of TPTH involves treatment of 1,000 acres, the Agency assumed that an automated means of flagging, rather than human flaggers would be employed for applications to greater than 350 acres.
- For the non-cancer assessment, the Agency used the maximum application rates for each crop.
- For the cancer assessment, the Agency used typical application rates, typical number of acres treated per day, typical number of applications per year, and assumed a worker life span of 70 years with a TPTH exposure period of over 35 years, and that workers were exposed for 8 hours per day for the

typical number of days applied per year (this varied from 1–96 days depending on type of equipment used and whether applicators were private or commercial applicators).

- The following generic protection factors (PF) were used to represent various risk mitigation measures on the labels: 50 percent PF for body exposure with a double layer of clothing, 90 percent PF for hand exposure for use of chemical resistance gloves, and 80 percent PF for use of dust/mist mask for respiratory protection.
- A dermal absorption factor of 10% was used for the cancer assessment based on the comparison of the LOAELs of the oral and dermal developmental toxicity studies in rabbits [Refs. 3 and 22].

E. Occupational Handler Risk Characterization

Because different toxic effects were selected for the assessment of non-cancer dermal and inhalation risks, separate risk assessments were conducted for dermal and inhalation exposures. Both short- and intermediate-term Margins of Exposure (MOEs) for occupational handlers were derived based upon comparison of dermal exposure estimates against a NOAEL of 3 mg/kg/day from a dermal developmental study in the rabbit. Inhalation MOEs were derived based upon comparison of inhalation exposure estimates against a NOAEL of 0.00034 mg/L or 0.092 mg/kg/day. The cancer assessment used the oral Q_1* of 1.83 $(mg/kg/day)^{-1}$ based on fatal pituitary gland adenoma tumors in female rats. To calculate exposure for the cancer assessment, a 10 percent dermal absorption (based on comparison between rabbit oral and dermal studies) was used, while inhalation absorption was assumed to be 100 percent. The dermal and inhalation exposures were summed to calculate a total exposure, which was combined with the Q_1* to estimate cancer risk [Ref. 17].

1. *Non-cancer risk assessment.* The non-cancer occupational risk estimates are summarized in the following Table 2. Since the uncertainty factors and target MOEs for occupational workers are 100 for short- and intermediate-term dermal and inhalation risk, MOEs over 100 represent acceptable occupational risks to workers, whereas MOEs below 100 would represent a risk concern for the Agency. Non-cancer inhalation risks were acceptable across all use scenarios. Dermal non-cancer risks were also acceptable across all use scenarios, when mitigation measures were considered, with the exception of mixing and loading liquids for aerial application to sugar beets at maximum application rates (MOE of 84) and mixing and loading wettable powder in water-soluble bags for aerial and chemigation application for all three use sites (MOEs of 33 to 82).

TABLE 2.— SUMMARY OF OCCUPATIONAL HANDLER DERMAL AND INHALATION NON-CANCER RISK ESTIMATES

Exposure Scenario	Crop	Application Rate (lb ai/A)	Dermal Short- and Intermediate-Term (MOE = 100)			Inhalation (MOE = 100)		
			Baseline	PPE	Engineering Controls	Baseline	PPE	Engineering Controls
Mixer/Loader Risk.								
Mixing/Loading Liquids for Aerial/Chemigation Application.	Pecans	0.375	See Eng. Control	See Eng. Control	140	See Eng. Control	See Eng. Control	520
	Potatoes	0.1875	See Eng. Control	See Eng. Control	110	See Eng. Control	See Eng. Control	410
	Sugar beets	0.25	See Eng. Control	See Eng. Control	84	See Eng. Control	See Eng. ..... Control	310
	Sugar beets	0.125 (Typ)	See Eng. Control	See Eng. Control	170	See Eng. Control	See Eng. Control	N/A[2]
Mixing/Loading Liquids for Groundboom Application.	Potatoes	0.1875	See Eng. Control	See Eng. Control	740	See Eng. Control	See Eng. Control	2,800
	Sugar beets	0.25	See Eng. Control	See Eng. Control	560	See Eng. Control	See Eng. Control	2,100
Mixing/Loading Liquid for Orchard Airblast Sprayer Application.	Pecans	0.375	See Eng. Control	See Eng. Control	1400	See Eng. Control	See Eng. Control	5,200
Mixing/Loading Wettable Powder (WSB) for Aerial/Chemigation Application.	Pecans	0.375	See Eng. Control	See Eng. Control	55	See Eng. Control	See Eng. Control	600
	Pecans	0.25 (Typ)	See Eng. Control	See Eng. Control	82	See Eng. Control	See Eng. Control	N/A[2]
	Potatoes	0.1875	See Eng. Control	See Eng. Control	44	See Eng. Control	See Eng. Control	480

TABLE 2.— SUMMARY OF OCCUPATIONAL HANDLER DERMAL AND INHALATION NON-CANCER RISK ESTIMATES—Continued

Exposure Scenario	Crop	Application Rate (lb ai/A)	Dermal Short- and Intermediate-Term (MOE = 100)			Inhalation (MOE = 100)		
			Baseline	PPE	Engineering Controls	Baseline	PPE	Engineering Controls
	Potatoes	0.125 (Typ)	See Eng. Control	See Eng. Control	65	See Eng. Control	See Eng. Control	N/A[2]
	Sugar beets	0.25	See Eng. Control	See Eng. Control	33	See Eng. Control	See Eng. Control	360
	Sugar beets	0.125 (Typ)	See Eng. Control	See Eng. Control	65	See Eng. Control	See Eng. Control	N/A[2]
Mixing/Loading Wettable Powder (WSB) for Groundboom Application.	Potatoes	0.1875	See Eng. Control	See Eng. Control	290	See Eng. Control	See Eng. Control	3,200
	Sugar beets	0.25	See Eng. Control	See Eng. Control	220	See Eng. Control	See Eng. Control	2,400
Mixing/Loading Wettable Powder for Orchard Airblast Sprayer Application.	Pecans	0.375	See Eng. Control	See Eng. Control	550	See Eng. Control	See Eng. Control	6,000
Applicator Risk. Applying Sprays with a Fixed-Wing Aircraft.	Pecans	0.375	No Data, See Eng. Cont.	No Data, See Eng. Cont.	240	No Data, See Eng. Cont.	No Data, See Eng. Cont.	630
	Potatoes	0.1875	No Data, See Eng. Cont.	No Data, See Eng. Cont.	190	No Data, See Eng. Cont.	No Data, See Eng. Cont.	510
	Sugar beets	0.25	No Data, See Eng. Cont.	No Data, See Eng. Cont.	140	No Data, See Eng. Cont.	No Data, See Eng. Cont.	380
Applying Sprays with a Groundboom Sprayer.	Potatoes	0.1875	460	580	1,300	310	1,500	5,300
	Sugar beets	0.25	340	440	960	230	1,100	4,000
Applying Sprays to Orchards with an Airblast Sprayer.	Pecans	0.375	33	55	630	95	480	950
	Pecans	0.25 (Typ)	50	82	950	140	720	1,400
Mixer/Loader/Applicator Risk. Mixing/Loading Liquids and Applying Sprays with a Groundboom Sprayer.	Potatoes	0.1875	N/A[1]	N/A[1]	470	N/A[1]	N/A[1]	1,800
	Sugar beets	0.25	N/A[1]	N/A[1]	350	N/A[1]	N/A[1]	1,400
Mixing/Loading Liquids and Applying Sprays to Orchards with an Airblast Sprayer.	Pecans	0.375	N/A[1]	N/A[1]	430	N/A[1]	N/A[1]	810
Mixing/Loading Wettable Powder (WSB) and Applying Sprays with a Groundboom Sprayer.	Potatoes	0.1875	N/A[1]	N/A[1]	240	N/A[1]	N/A[1]	2,000

TABLE 2.— SUMMARY OF OCCUPATIONAL HANDLER DERMAL AND INHALATION NON-CANCER RISK ESTIMATES—Continued

Exposure Scenario	Crop	Application Rate (lb ai/A)	Dermal Short- and Intermediate-Term (MOE = 100)			Inhalation (MOE = 100)		
			Baseline	PPE	Engineering Controls	Baseline	PPE	Engineering Controls
	Sugar beets	0.25	N/A[1]	N/A[1]	180	N/A[1]	N/A[1]	1,500
Mixing/Loading Wettable Powder (WSB) and Applying Sprays to Orchards with an Airblast Sprayer.	Pecans	0.375	N/A[1]	N/A[1]	290	N/A[1]	N/A[1]	820
Flagger Risk. Flagging Spray Applications.	Pecans	0.375	120	140	6,200	140	700	7,000
	Potatoes	0.1875	250	270	12,000	280	1,400	14,000
	Sugar beets	0.25	190	210	9,400	210	1,100	11,000

[1] There is no unit exposure for mixer/loader to add to the applying unit exposure until engineering controls.
[2] Inhalation MOE is not of concern at the maximum application rate; therefore, an assessment of the typical application was not necessary.
[a] Note: Baseline unit exposure represents long pants, long sleeved shirt, no gloves, open cab tractor, and no respirator. Additional PPE includes double layer of clothing (50% protection factor for clothing), chemical resistant gloves, and a dust/mist respirator. Engineering controls include closed mixing/loading or water-soluble bag, single layer clothing, chemical resistant gloves, enclosed cab, enclosed cockpit, or enclosed truck (98% protection factor). Application rates are based on the maximum application rates listed on the TPTH labels, and on typical application rates reported by BEAD. Acres treated per day are from BEAD reports of the acres treated in one work day.
[b] Source: TPTH: HED Revised Risk Assessment for the Reregistration Eligibility Decision (RED) Document, September 21, 1999.

Although the MOEs for mixing/loading wettable powder for aerial/chemigation application were calculated to be less than 100, based on a number of factors, the Agency determined in its reregistration eligibility determination that the MOEs for the water soluble bag formulation are acceptable. First, the results of the Agency's non-cancer occupation risk assessment for this formulation (and similar results in the occupational cancer risk assessment discussed below), are not consistent with the Agency's experience that water soluble packaging results in exposures comparable to the use of other engineering controls such as closed mixing/loading systems for liquid formulations, and is therefore a protective measure that the Agency generally promotes. Second, the Agency believes that the significant discrepancy observed between exposure from liquid formulations in closed systems and water soluble bags for this chemical are due to the failure of the TPTH water soluble bag study to replicate actual use patterns on all three registered crop sites i.e., the study monitored workers who handled only enough active ingredient to treat 5 acres, modeling an airblast application scenario for pecan orchards which are 40 acres, rather than the 1,000 acres for aerial application to sugar beets and potatoes.

Results of the worker exposure study were thus, of necessity, extrapolated to calculate risks from handling enough active ingredient to evaluate larger acreages. However, the Agency does not believe, under the circumstances present, that a linear extrapolation of exposure from 5 acres to 1,000 acres is reliable. Consequently, while the Agency believes that the study is appropriate to estimate exposures based on treatment of 40 acres (i.e., airblast application on pecan orchards), it does not believe that it is appropriate to use this same study to estimate exposures based on treatment of 1,000 acres, and that use of this study provides an overestimate of risk. Based on the Agency's experience that water soluble packaging results in exposures comparable to the use of other engineering controls such as closed mixing/loading systems for liquid formulations, the Agency determined in the RED that a new exposure study based on a larger treated acreage, which was required with the issuance of the RED, will demonstrate that the MOEs for the water soluble bag formulation are acceptable.

2. *Cancer risk assessment.* The occupational cancer risk estimates are summarized in Table 3 below. Under the Agency's non-dietary cancer risk policy, cancer risks less than 1.0×10^{-6} (i.e., less than a 1 in 1 million lifetime risk of excess cancer from TPTH exposure) are generally considered acceptable, cancer risks greater than 1×10^{-4} (i.e., more than a 1 in 10,000 lifetime risk of excess cancer from TPTH exposure) are generally considered unacceptable, whereas for cancer risks that fall between 1×10^{-6} and 1×10^{-4}, the Agency's goal is to bring these risks to 10^{-6} or less through mitigation if feasible, although risks higher than 10^{-6} but less than 10^{-4} will generally be considered acceptable if measures to mitigate these risks are not available and benefits of continuing use are demonstrated. Mixing and loading wettable powder in water-soluble bags for aerial/chemigation and for groundboom application on potatoes was estimated at 1.5×10^{-4} for commercial applicators. As noted above in Unit IV.E.1., the Agency believes that the deficiencies in the exposure study used to model this formulation provide an overestimate of exposure and risk for potatoes and sugarbeets. Most of the other cancer risk estimates were greater than 1×10^{-6} but less than 1.0×10^{-4} (ranging from 1.1×10^{-6} to 9.1×10^{-5}).

TABLE 3.— SUMMARY OF OCCUPATIONAL HANDLER CANCER RISK ESTIMATE FOR TPTH

Exposure Scenario	Crop	Application Rate (lb ai/A)	Cancer Risk Estimate		
			Baseline	PPE	Engineering Controls
Mixer/Loader Risk. Mixing/Loading Liquids for Aerial/Chemigation Application.	Pecans	0.25	See Eng. Control	See Eng. Control	3.4E-6
	Potatoes	0.125	See Eng. Control	See Eng. Control	6.3E-5 / 1.5E-6
	Sugar beets	0.125	See Eng. Control	See Eng. Control	3.8E-5
Mixing/Loading Liquids for Groundboom Application.	Potatoes	0.125	See Eng. Control	See Eng. Control	6.1E-5 / 1.9E-6
	Sugar beets	0.125	See Eng. Control	See Eng. Control	3.7E-5 / 1.9E-6
Mixing/Loading Liquid for Orchard Airblast Sprayer Application	Pecans	0.25	See Eng. Control	See Eng. Control	1.0E-6
Mixing/Loading Wettable Powder (WSB) for Aerial/Chemigation Application.	Pecans	0.25	No Data Cont.	No Data Cont.	8.1E-6
	Potatoes	0.125	No Data Cont.	No Data Cont.	1.5E-4 / 3.6E-6
	Sugar beets	0.125	See Eng. Control	See Eng. Control	9.1E-5
Mixing/Loading Wettable Powder (WSB) for Groundboom Application	Potatoes	0.125	See Eng. Control	See Eng. Control	1.5E-4 / 4.6E-6
	Sugar beets	0.125	See Eng. Control	See Eng. Control	8.8E-5 / 4.6E-6
Mixing/Loading Wettable Powder (WSB) for Orchard Airblast Sprayer Application.	Pecans	0.25	See Eng. Control	See Eng. Control	2.4E-6
Applicator Risk. Applying Sprays with a Fixed-Wing Aircraft.	Pecans	0.25	No Data, See Eng. Cont.	No Data, See Eng. Cont.	2.0E-6
	Potatoes	0.125	No Data, See Eng. Cont.	No Data, See Eng. Cont.	3.8E-5
	Sugar beets	0.125	No Data, See Eng. Cont.	No Data, See Eng. Cont.	2.3E-5
Applying Sprays with a Groundboom Sprayer	Potatoes	0.125	1.4E-4 / 4.3E-6	8.1E-5 / 2.5E-6	3.5E-5 / 1.1E-6
	Sugar beets	0.125	8.3E-5 / 4.3E-6	4.9E-5 / 2.5E-6	2.1E-5 / 1.1E-6
Applying Sprays to Orchards with an Airblast Sprayer.	Pecans	0.25	4.4E-5	2.5E-5	2.5E-6
Mixer/Loader/Applicator Risk. Mixing/Loading Liquids and Applying Sprays with a Groundboom Sprayer.	Potatoes	0.125	N/A	N/A	3.0E-6
	Sugar beets	0.125	N/A	N/A	3.0E-6
Mixing/Loading Liquids and Applying Sprays to Orchards with an Airblast Sprayer.	Pecans	0.25	N/A	N/A	3.5E-6

TABLE 3.— SUMMARY OF OCCUPATIONAL HANDLER CANCER RISK ESTIMATE FOR TPTH—Continued

Exposure Scenario	Crop	Application Rate (lb ai/A)	Cancer Risk Estimate		
			Baseline	PPE	Engineering Controls
Mixing/Loading Wettable Powder (WSB) and Applying Sprays with a Groundboom Sprayer.	Potatoes	0.125	N/A	N/A	5.7E-6
	Sugar beets	0.125	N/A	N/A	5.7E-6
Mixing/Loading Wettable Powder (WSB) and Applying Sprays to Orchards with an Airblast Sprayer	Pecans	0.25	N/A	N/A	5.0E-6
Flagger Risk. Flagging Spray Applications	Pecans	0.25	4.5E-6	3.4E-6	9.1E-8
	Potatoes	0.125	3.4E-5	2.5E-5	6.8E-7
	Sugar beets	0.125	2.0E-5	1.5E-5	4.1E-7

[a]N/A—There is no unit exposure for mixer/loader to add to the applying unit exposure until engineering controls.
[b]Baseline unit exposure represents long pants, long sleeved shirt, no gloves, open cab tractor, and no respirator. Additional PPE includes double layer of clothing (50% protection factor for clothing), chemical resistant gloves, and a dust/mist respirator. Engineering controls include closed mixing/loading or water-soluble bag, single layer clothing, chemical resistant gloves, enclosed cab, enclosed cockpit, or enclosed truck (98% protection factor). Application rates are based on the maximum application rates listed on the TPTH labels, and on typical application rates reported by BEAD. Acres treated per day and number of exposures per year are based on data from BEAD. In cases where the number of acres treated or the number of exposures per year are different for commercial applicator and private grower, both estimates are presented, separated by a ''/'' in the following manner: commercial value / private grower value.
[c]Source: TPTH: HED Revised Risk Assessment for the Reregistration Eligibility Decision (RED) Document, September 21, 1999.

3. *Incident reports*. The Agency reviewed the OPP Incident Data System (IDS), Poison Control Center, California Department of Food and Agriculture (replaced by the Department of Pesticide Regulation in 1991), and National Pesticide Telecommunications Network (NPTN) databases for reported incident information for TPTH. Only seven cases submitted to the IDS were identified; however, no documentation confirming exposure or health effects were available. As a result, the Agency has concluded that relatively few incidents of illness from exposure to TPTH have been reported and no recommendations can be made based on the few incident reports available [Ref. 2].

F. Post-Application Exposure and Risk Estimates

The Agency determined there were three main categories of activities which could result in the potential postapplication exposures to individuals entering areas treated with TPTH [Ref. 17]:

- Harvesting pecans (although mechanically harvested, it is a very dusty operation); Scouting and moving hand-set irrigation pipes for potatoes and sugar beets; and
- Harvesting, sorting/packing, and brushing/washing potatoes and sugar beets.

None of these crop activities have been identified as scenarios yielding potential chronic exposure (i.e., ≥ 180 days of exposure/year) concern.

The postapplication exposure assessment for pecan harvesting was based on a reentry study of pecan workers operating windrowing equipment as part of pecan harvesting activities [Ref. 23]. Both dermal and inhalation exposure monitoring were conducted. In addition, soil and thatch samples were collected from the dripline beneath the treated pecan trees (potential TPTH postapplication exposures were expected from both the pecans and disturbances of the soil under trees). Both the monitoring data, as well as the soil/thatch residue levels, were used in the assessment.

Soil and foliar dissipation data that were collected following applications of TPTH to potatoes and peanuts [Ref. 24] were also used for the postapplication exposure assessment for potatoes and sugar beets (since potatoes and sugar beets both have similar application rates and cultural techniques). TPTH did not appear to dissipate in the soil; therefore, the highest daily mean level (1.36 parts per billion TPTH) at one day post application was used in the assessment. The soil level was used in conjunction with a soil/dermal transfer coefficient of 3.9 ng/ppb/hr. The foliar dissipation curve is (log Y = -0.0573X + -0.498), from the TPTH foliar dissipation study accepted by EPA in 1986 (Y = the dislodgeable foliar residue in μg/cm^2 and X = the number of days after the application).

The assumptions used in the calculations for occupational postapplication risks include the following:

- Application rates used for the different postapplication scenarios were:

No rate required for pecan harvesting since the study provided exposure values (μg/kg/hr), making calculations based on an application rate not necessary (the study application rate was 0.375 lb ai/acre)

For the harvesting and maintenance activities assessment, the non-cancer calculations were completed using the maximum application rates for specific crops recommended by the available TPTH labels. Typical application rates were used in the calculations for the cancer assessment.

- Transfer coefficients (Tc) were not used for pecan harvesting estimates because the study provides exposure values (μg/kg/hr). For potato harvesting, a soil/dermal transfer coefficient of 3.9 ng/ppb/hr was used, based on a study conducted by the Medical University of South Carolina for the Agency's Hazard Assessment Project [Ref. 24]. TPTH soil and foliar dissipation data. For maintenance activities associated with potatoes and sugar beets, the transfer coefficient was assumed to be 2,500 cm^2/hr.

• Daily exposure is assumed to occur for 8 hours per day.

• The average body weight of 60 kg is used in the non-cancer risk estimates (due to a developmental endpoint), while for cancer estimates, 70 kg is used, representing a typical adult.

• Exposure frequency is estimated to be 40 days/year for pecan harvesting, and 30 days/year for potato and sugar beet maintenance activities and harvesting.

• Exposure duration is assumed to be 35 years. This represents a typical working lifetime.

• Lifetime is assumed to be 70 years.

• Dermal absorption is assumed to be 10 percent for cancer estimates because the Q_1* is not based on a dermal study, as in the handler assessment.

• The Q_1* used in the cancer assessment is 1.83 $(mg/kg/day)^{-1}$.

G. Occupational Postapplication Risk Characterization

The postapplication risks are summarized in Tables 4–6 below. The postapplication assessment indicates that for pecan harvesting, MOEs exceed 100 on day zero after application, while cancer risk estimates are greater than 1.0×10^{-4} until 7 days after the last application at the Georgia site, and between 21 and 30 days after the last application at the Texas site. However, pecan harvesting generally occurs at least 21 days after TPTH application. As part of the reregistration eligibility decision, TPTH labels have been amended to require a minimum harvest interval of 30 days, thereby resulting in MOEs over 100 and cancer risks of less than 1×10^{-4} for pecan harvesters.

As indicated in Table 5 below, MOEs for maintenance activities are ≥ 100 on day zero after application for potatoes, and on the second day after application for sugar beets. The cancer risk estimate for maintenance activities was found to be less than 1.0×10^{-4} on the second day after application for both potatoes and sugar beets. The MOE and cancer risk estimate for potato harvesting do not exceed the Agency's level of concern on any day after application (see Table 6). Since TPTH has a current REI of 48 hours for all crops, postapplication risks for maintenance and harvesting activities on sugar beets and potatoes are acceptable.

TABLE 4.—SUMMARY OF ESTIMATED POSTAPPLICATION RISK ESTIMATES BASED ON RESIDUE RATIOS DURING PECAN HARVESTING

Days After Last Treatment	Soil/Thatch Residue (μg/g)[a]	Residue Ratio[b]	MOE		Cancer Risk Estimate
			Dermal	Inhalation	
Georgia.					
0	42.9	4.0	170	480	1.9E-04
1	23.3	2.2	320	890	1.1E-04
3	27	2.5	270	770	1.2E-04
7	10.8	1.0	680	1900	4.9E-05
14	11.7	1.1	630	1800	5.3E-05
21	18	1.7	410	1200	8.1E-05
30	18.4	1.7	400	1100	8.3E-05
60	10.7	0.99	690	1900	4.8E-05
90	10.9	1.01	680	1900	4.9E-05
120	3.5	0.32	2100	5900	1.6E-05
Texas.					
0	7.2	1.76	220	1100	1.4E-04
1	7.4	1.80	220	1100	1.5E-04
3	3.8	0.93	420	2100	7.6E-05
7	6.4	1.56	250	1200	1.3E-04
14	9.2	2.24	170	850	1.8E-04
21	6.2	1.51	260	1300	1.2E-04
30	4.2	1.02	380	1900	8.4E-05
60	4.0	0.98	400	2000	8.0E-05
90	3.1	0.76	520	2500	6.2E-05
120	4.8	1.17	330	1600	9.6E-05

[a] Soil/thatch residues from pecan harvester exposure study (MRID #43557401).
[b] Residue ratios calculated by dividing the residue level on a given day by the residue level on the day exposure samples were collected (assumed to be 10.8 μg/g for GA and 4.1 μg/g for TX).

TABLE 5.— SUMMARY OF POSTAPPLICATION RISK ESTIMATES FROM TPTH DURING MAINTENANCE ACTIVITIES

Days After Last Treatment	Potatoes Non-cancer [a] (App. Rate: 0.1875 lb ai/A)		Sugar beets Non-cancer[a] (App. Rate: 0.25 lb ai/A)		Potatoes and Sugar beets Cancer[a] (App. Rate: 0.125 lb ai/A)	
	DFR[b] (μg/cm^2)	MOE	DFR[b] (μg/cm^2)	MOE	DFR[b](μg/cm^2)	Cancer Risk Estimate
0	0.084	100	0.112	80	0.056	1.2E-04
1	0.074	120	0.099	91	0.049	1.1E-04
2	0.065	140	0.087	100	0.043	9.3E-05

[a] The maximum application rates (0.1875 lb ai/A and 0.25 lb ai/A) were used for non-cancer assessment of potatoes and sugar beets, respectively. The typical application rate (0.125 lb ai/A) for both potatoes and sugar beets was used to estimate cancer risk.
[b] Dislodgeable foliar residue. Based on regression equation from study (MRID# 42507801) and using application rate indicated above, initial DFR of 4%, and a dissipation rate of 12% per day.

TABLE 6.— SUMMARY OF POSTAPPLICATION RISK ESTIMATES FROM TPTH DURING POTATO HARVESTING

Days After Last Treatment[a]	Non-cancer		Cancer	
	TR[b] (ppb TPTH)	MOE	TR[b] (ppb TPTH)	Cancer Risk
Any Day	1.36	4,300,000	1.36	4.5E-9

[a] TPTH was not found to dissipate appreciably in soil; therefore, the above risks are applicable for any day after treatment.
[b] The transferrable residue was based on the highest daily average residue measured.

V. Summary of Benefits and Evaluation of Alternatives

A. Importance of Triphenyltin Hydroxide

The Agency conducted a benefits assessment for TPTH by analyzing the economic impact of cancellation on each of the three registered use sites. Of the three sites for which TPTH is registered (pecans, potatoes and sugarbeets), moderate economic impacts to pecan production are anticipated if TPTH is not available for disease control. The impact will be due to higher prices for the alternatives rather than their reduced efficacy. More importantly, however, there is potential for development of resistance from the use of the registered alternatives which, as part of the triazole group of fungicides, share a single site and similar mode of action, thereby increasing the risk of resistance development over time in the absence of TPTH, which has a different mode of action from the triazoles. For potatoes and sugarbeets, minor economic impacts would result from TPTH cancellation, although the cancellation of TPTH could adversely affect resistance management programs relying on TPTH as an inexpensive contact fungicide with a multi-site mode of action. Sugarbeet growers would also apply greater amounts of an alternative fungicide (e.g. mancozeb), if TPTH were not available, resulting in a negative impact on sugarbeet integrated pest management (IPM) programs and greater overall environmental pesticide loading.

B. Usage of Triphenyltin Hydroxide

As already noted, TPTH is a non-systemic protectant foliar fungicide registered for use on three sites: pecans, potatoes and sugarbeets. The fungicide was also formerly registered for use on carrots, peanuts and tobacco, and as an industrial preservative for vinyl (PVC) electrical tubing. The exact mode of action of TPTH is not clearly understood. Researchers indicate that TPTH inhibits oxidative phosphorylation in fungal pathogens. The fungicide's inhibition of other metabolic pathways has also been proposed [Ref. 25]. In addition to disease control, TPTH is registered as a suppressant of Colorado potato beetle populations on potatoes. The mode of action of TPTH against the Colorado potato beetle has not been identified.

TPTH use is limited to some extent by its phytotoxicity. The TPTH label recommends that the fungicide not be applied in combination with surfactants, spreaders, stickers or buffers to reduce the possibility of phytotoxicity. A phytotoxic response occurs when applied alone at the full label rate on potatoes [Ref. 26].

The Agency estimates total usage of TPTH in the United States at approximately 569,000 pounds of active ingredient per year [Ref. 27]. Pecans and sugarbeets represent the largest volume of use and highest percent crop treated of the three use sites [Ref. 27].

1. *Pecans.* TPTH is principally used to control scab, *Cladosporium effusum*, the most important disease on pecans [Refs. 27 and 28]. TPTH applications begin when leaves are unfolding and continue at 2 to 4 week intervals until the shucks begin to open. A maximum of 10 applications may be made per growing season, although the total amount of TPTH which can be used in a given season is limited to 1.5 lbs active ingredient per acre (ai/A) in Arizona and New Mexico, and all areas west of Interstate 35 (I-35), and 2.25 lbs ai/A in all other areas east of I-35. The difference in maximum seasonal application rates is based on differences in climate which make disease pressures greater in some areas relative to others [Ref. 2]. Scab infection occurs on both foliage and nuts leading to lesion formation on nuts and subsequent nut drop.

In addition to scab, TPTH is registered to control other diseases on pecans including: brown leaf spot (*Cercospora fusca*), downy spot (*Mycosphaerella caryigena*), liver spot (*Gnomonia nerviseda*), powdery mildew (*Microsphaera alni*), sooty mold (causal agent not identified) and leaf blotch (*Mycosphaerella dendroides*).

2. *Potatoes.* TPTH is used for control of early blight, *Alternaria solani*, and late blight, *Phytophthora infestans*, of potatoes, primarily in the upper Midwest potato growing region. The major states where TPTH is used on potatoes include Minnesota, North Dakota, Wisconsin and Colorado. Fungicide applications typically begin when plant disease symptoms are first observed and continue as needed. Due to phytotoxic concerns with applications of the fungicide at the full label rate of 0.19 lbs ai/A, TPTH is applied at 0.09 lbs ai/A in combination with another fungicide, typically mancozeb at 1 lb a.i./A. Two to three TPTH/mancozeb applications are usually made per growing season [Ref. 27]. A maximum of 0.56 lbs ai/A of TPTH can be applied in a given season (or the equivalent of three applications at the maximum labeled use rate).

TPTH plays a role in potato IPM programs in the upper Midwest. University plant pathologists have developed IPM programs incorporating the use of TPTH, thereby allowing growers to reduce the total amount and number of fungicide applications to potatoes per growing season.

TPTH is also registered as a suppressant of Colorado potato beetle (CPB) populations. Research by Hare, Logan and Wright [Ref. 29] indicated that applications of TPTH reduced CPB larval densities. The researchers concluded that applications of TPTH may enable potato growers to reduce the total number of insecticides necessary for control of CPB. However, applying TPTH at the rate reported to suppress CPB may not be acceptable due to applications of the fungicide resulting in a phytotoxic response to many commercially desirable varieties. Thus, the Agency does not consider TPTH to be a viable pest control option for control of CPB.

3. *Sugarbeets.* TPTH is used in North Dakota, Minnesota and West Texas to control Cercospora leaf spot, *Cercospora beticola*, on sugarbeets [Ref. 30]. If the disease is not adequately controlled, fungal infection results in defoliation and subsequent yield losses.

TPTH applications begin when environmental conditions conducive for Cercospora leafspot infection appear or when infection is first observed.

Growers typically apply up to four TPTH applications with the rate varying between the maximum and minimum labeled rate [Ref. 31]. The current maximum labeled seasonal use rate is 0.5 lbs ai/A in all states (or two applications at the maximum labeled use rate) except Minnesota, North Dakota, and Michigan, where the maximum seasonal use allowed is 0.75 lbs ai/A (or three applications at the maximum labeled use rate). Use of TPTH at the highest labeled rate has been necessary in some states in recent years due to TPTH tolerance.

C. Alternatives Assessment

1. *Pecans*. Several potential alternative fungicides are registered for pecans including: azoxystrobin, benomyl, copper compounds, dodine, fenarimol, fenbuconazole, propaconazole, sulfur, thiophanate methyl, and ziram. TPTH is a protectant fungicide having a multi-site mode of action which controls all dominant fungal diseases (such as scab, downy spot, brown leaf spot, powdery mildew, liver spot, and leaf blotch) of pecans. No alternative fungicide is claimed to control all of the diseases listed on labels as being controlled by TPTH [Ref. 32].

Published data were not available for the Agency to determine the efficacy of TPTH compared to registered alternatives for control of scab. Due to this lack of data, the Agency spoke with experts familiar with scab to determine pecan yield impacts without the use of TPTH. Based on expert input, it appears that pecan diseases can be controlled using registered alternatives, but production costs will increase. The experts also claimed that the pecan growers are already on the verge of bankruptcy, and if the production costs were to increase, then many small pecan growers may be forced out of business. All experts believed that in the absence of TPTH, propaconazole and fenbuconazole would be used for scab control. In the southern states, pecans are sprayed approximately 6–8 times per year with different fungicides (mostly TPTH, propaconazole and fenbuconazole). The researchers estimated that replacing TPTH with propaconazole and fenbuconazole will not impact the yield but pecan production costs will be increased due to higher fungicide costs. In addition, since propaconazole and fenbuconazole belong to the triazole group of fungicides, their extensive use may result in pest resistance due to their similar modes of action [Ref. 27].

During 1999, azoxystrobin was also registered for use on pecan against scab. Azoxystrobin is very effective in controlling scab and possibly other diseases but growers may not use it extensively due to its higher cost per acre. The rest of the registered alternative fungicides appear to have limited viability for the control of pecan diseases. The scab pathogen has developed resistance against benomyl and thiophanate-methyl. Applications of dodine result in a phytotoxic response by several pecan varieties [Refs. 33 and 34]. Some states suggest that the use of dodine be restricted to certain varieties or be used only during the pre-pollination period [Ref. 35]. Applications of copper or sulfur may result in a phytotoxic response by pecan foliage at high temperatures. No data are available to determine the efficacy of fenarimol for control of scab. Based on a communication with a university plant pathologist, fenarimol is less efficacious than TPTH [Ref. 30].

Cultural controls are practiced to reduce scab infection. These include pruning the tree for better air circulation and the use of resistant varieties [Refs. 36, 37 and 38]. However, these non-chemical controls alone cannot provide acceptable control of scab.

2. *Potatoes*. TPTH is registered for control of early blight, Alternaria solani, and late blight, *Phytophthora infestans*. Registered alternative fungicides to TPTH for control of early and/or late blight include those that are protective (chlorothalonil, copper compounds, metalaxyl, and the ethylene bisdithiocarbamates (EBDCs), such as mancozeb, maneb, and metiram) and those with protective, systemic and curative properties (azoxystrobin, cymoxanil, dimethemorph, metalaxyl).

Growers use TPTH in the late season to control pathogen sporulation to prevent tuber blight phase of the disease. Recently registered fungicides (azoxystrobin, dimethemorph, and cymoxanil) also have antisporulation activity against the late blight pathogen. However, TPTH is preferred due to its lower per acre treatment costs, reasonable efficacy and because it has a different mode of action than the other registered alternatives, diminishing the likelihood of resistance development [Refs. 27 and 32].

Chlorothalonil, mancozeb and azoxystrobin are also effective in controlling early blight disease on potatoes. Based on three field studies, EPA concluded that combinations of TPTH/mancozeb fungicide applications provide either equal or greater efficacy than any other fungicide application for control of early blight [Refs. 39, 40 and 41]. However, a statistical analysis of the data indicates that there were no significant differences when comparing mancozeb/TPTH to mancozeb treatments in terms of yield. Thus, the Agency believes that if TPTH were not available, growers could use mancozeb at 0.80 to 1.60 lbs ai/A without any decrease in efficacy in the upper Midwest potato growing region. Other secondary alternatives (chlorothalonil, maneb and metiram) could also be used without any decrease in efficacy. The Agency is aware that the unavailability of TPTH might affect potato IPM programs. This may result in growers applying greater amounts of other fungicides (chlorothalonil and EBDCs) during the potato growing season than if TPTH use were allowed to continue.

Cultural controls are practiced to reduce fungal infection. These include: (1) Planting tolerant and/or resistant varieties and (2) supplying adequate fertilizer and water to maintain plant vigor and reduced susceptibility to fungal infection [Ref. 42]. However, fungicides are still needed for acceptable disease control.

3. *Sugarbeets*. The most viable alternatives to TPTH are tetraconazole (currently only available under an emergency exemption) and mancozeb. If TPTH were no longer registered there could be two possible scenarios: (1) Mancozeb and tetraconazole (under an emergency exemption or full registration) are available, and (2) mancozeb alone is available. If mancozeb and tetraconazole are available, sugarbeet growers will use them in alternation to achieve a comparable disease control [Ref. 43]. Tetraconazole is a locally systemic fungicide and is more efficacious than TPTH or mancozeb in controlling the pest. Using a combination of tetraconazole and mancozeb, the growers are not likely to suffer any yield loss. The Agency is currently reviewing an application for registration of tetraconazole, which could be granted within the coming year. start

If both TPTH and tetraconazole were not available, then the growers would have no choice but to use mancozeb alone. Based on two comparative performance studies the Agency estimates sugarbeet growers would most likely use mancozeb without a decrease in efficacy if the spraying frequencies are doubled [Ref. 44]. The Agency estimates that seven mancozeb applications would be needed compared to a total of four with TPTH. This increased number of applications and the higher application rate of using EBDC fungicides would lead to an increase in the pesticide load on sugarbeets of about 10 lbs a.i./A, resulting in a negative impact on

sugarbeet IPM programs. Exclusive reliance on a single fungicide could also result in resistance development and impede the ability of farmers to manage resistance through use of multiple fungicides with different modes of action [Ref. 32].

Other registered fungicides on sugarbeets include benomyl, thiophanate-methyl and thiabendazole, and copper compounds. These fungicide are not considered viable alternatives due to the development of Cercospora leafspot isolates resistant to these fungicides [Ref. 45]. Cercospora leafspot resistance to TPTH has not occurred in the United States but has been reported in Greece where there has been extensive and exclusive use of the fungicide on sugarbeets [Ref. 25].

Cultural practices can mitigate disease incidence, but none of the practices can provide commercially acceptable control without the use of fungicides. These non-chemical control practices include the planting of resistant varieties and long crop rotations [Ref. 36].

VI. Agency Evaluations of Comments to the PD 1

A. Public Comments and Agency Responses to the Toxicological Concerns contained in the PD 1

Although no comments relating to the carcinogenicity or inhalation toxicity were received in response to the PD 1, the Agency did receive a number of comments relating to the toxicity and immunotoxicity of TPTH. A summary of these comments and the Agency's responses follow.

1. *Comment.* The American Civil Liberties Union (ACLU) commented that they take strong exception to any action that merely requires warning labels directed at pregnant or fertile women. In addition, they believe that labeling is not an adequate or appropriate substitute for regulating toxic exposures and does not protect the reproductive health of male workers.

Response. In the Registration Standard, the Agency required several measures designed to minimize risks from exposure to TPTH while additional studies were conducted to clarify the exact nature of the developmental effects. To alert female pesticide applicators about the potential for teratogenic effects, a label statement indicating that ''TPTH causes birth defects in laboratory animals and that exposure during pregnancy should be avoided'' was required for all TPTH products. In addition, the Agency imposed additional regulatory requirements including protective clothing which must be worn by all persons handling TPTH (i.e., impermeable gloves, long pants, long-sleeved shirt, hat and boots) and appropriate respiratory protection. Since the Registration Standard was issued, the registrant has voluntarily required closed mixing/loading systems for aerial applications, adoption of mechanical transfer systems for all liquid formulations and packaging of the wettable powder formulation in water soluble packets. These requirements are equally protective of male and female pesticide applicators handling pesticide products containing TPTH. Secondly, the Registration Standard also requires the classification of TPTH as a restricted use pesticide, which provides greater controls to ensure proper pesticide handling and use. The Agency believes that these restrictions will effectively minimize risks to female and male applicators by reducing the potential for exposure.

2. *Comment.* American Hoechst Corporation disagrees with the Agency's position that TPTH produces teratogenic effects and that a NOAEL has not been determined in the two previously reviewed rat teratogenicity studies [Refs. 5 and 46]. American Hoechst and M&T Chemicals had the rat teratology study by Battelle Columbus Laboratories [Ref. 3] peer reviewed by two independent sources and submitted the results of those reviews. One reviewer found that 2.8 mg/kg/day was clearly a NOAEL for teratogenicity while the second reviewer was unable to identify a no effect level from the data available. In addition, American Hoechst submitted the results of a teratology study of triphenyltin fluoride (TPTF) that had been previously submitted to EPA. The NOAEL for this study was 3.0 mg/kg/day.

Response. The submissions from American Hoechst Corporation do not satisfactorily eliminate concerns regarding the teratogenicity of TPTH because no new information was presented to the Agency. Although these studies provided sufficient data to assure that TPTH is not teratogenic in rats at dose levels up to and including 8.0 mg/kg/day, these studies did result in developmental and maternal toxicity. Second, the registrant did not provide new information indicating that a NOAEL exists in the two rat studies. Third, the teratology study with TPTF also indicated hydroureter as a fetal lesion. The initial reviewer of this study classified this compound as a teratogen.

3. *Comment.* American Hoechst Corporation commented that the PD 1 failed to note that guidelines for immunotoxicity have not been established by the Agency. The notice also failed to note two immunotoxicity studies submitted to the Agency in January 1983. The registrants concluded that the first study, conducted with male mice dosed at 2.5 mg/kg/day for 10 days produced no indication of immunosuppressive effect as indicated by a reduction of spleen or thymus weights. The second study was a 14-day subchronic study. They concluded that the immunological status of mice receiving TPTH was not impaired until doses administered were overtly toxic as indicated by loss of body weight or mortality. The NOAEL for immunotoxicity was 5 mg/kg/day.

Response. The Agency acknowledges that guidelines for immunotoxicity testing were not available at the time of the PD 1. EPA reviewed both studies referenced by American Hoescht Corporation in developing the TPTH Registration Standard. In the first study, only a single dose of TPTH was made. The Agency concludes that this study does not adequately determine whether TPTH can affect the thymus. The Agency believes the second study did not demonstrate a definite NOAEL for TPTH. A decrease in spleen weight occurred at the lowest dose tested (2.5 mg/kg/day). The study also showed a consistent increase in response to T-dependent antigen. In addition, decreased leukocyte counts were observed at all dosage levels of TPTH, except at 10 mg/kg/day. Based on the results of these studies, the Agency required additional data in the Registration Standard, which were assessed as part of the TPTH Registration Eligibility Decision.

A single comment relating to the reproductive effects toxicity of TPTH was received in response to the PD 1. A summary of this comment and the Agency's response follows.

Comment. The ACLU also commented that the Agency has not given equal priority to potential testicular effects associated with exposure of males to TPTH.

Response. In the PD 1, the Agency stated its concerns regarding data suggesting that TPTH may produce decreased testicular weights in laboratory animals. As discussed above, Hoechst-Celanese Corporation submitted a rat two-generation reproduction study in which there were no specific effects of TPTH on the actual reproductive performance of the test animals. Based on the results of this study, the Agency's concern regarding adverse reproductive effects has been rebutted by the TPTH registrants.

A single comment relating to the toxicity to non-target organisms of

TPTH was received in response to the PD 1. A summary of this comment and the Agency's response follows.

Comment. One pecan grower noted that grazing cattle in TPTH-treated pecan groves did not adversely affect the cattle or other nontarget organisms.

Response. The registered labels for the use of TPTH on pecans has a restriction against the grazing of livestock in treated areas. Therefore, this practice is in violation of FIFRA. It should also be noted that grazing cattle in treated areas can result in residues in meat and milk, thereby contributing to human dietary exposure and risk.

B. Public Comments and Agency Responses to the Occupational and Residential Exposure Discussion Contained in the PD 1

Comments relating to exposure to TPTH were received in response to the PD 1. A summary of those comments and the Agency's responses follow.

1. *Comment.* There has been some concern from EPA about exposure, but 85 to 90 percent of the spray operations in Georgia are made from an air-conditioned tractor cab or enclosed cab.

Response. The Agency has taken enclosed cabs into account in its revised risk assessment. Since EPA issued the PD 1, all TPTH labels were amended to require closed cab tractors during application to registered crops.

2. *Comment.* It is very rare to find a woman involved in a pecan spray operation.

Response. The Agency is concerned about exposure to men as well as women from exposure to TPTH. In the absence of data, the Agency assumes that TPTH exposure to both male and female workers may potentially result in developmental effects, even though it is not known whether exposure to males results in developmental effects because male animals were not included in the developmental toxicity studies. The Agency believes that this is a reasonable assumption because data are available for other chemicals indicating that adverse developmental effects can occur with males. In addition, the Agency is also concerned about carcinogenicity, inhalation toxicity and immunotoxicity which clearly affected both males and females in the laboratory studies.

3. *Comment.* An aerial applicator noted that mixer/loaders are equipped with rubber gloves, goggles, a respirator, long-sleeved shirts, long pants and boots which essentially eliminates the possibility of dermal contact. In addition, the pilot himself has no exposure due to the fact that he makes each spray pass to the up wind side staying clear of the swath he made in the previous pass.

Response. Several worker exposure studies are available indicating that exposure does occur to workers even with the use of protective clothing and equipment. Even with state-of-the-art protective clothing and equipment, worker exposure to TPTH does occur. With the new mitigation measures in place and reduction in application rates, these exposures are no longer expected to result in unreasonable risk to workers. Aerial applicators are also required to be in enclosed cockpits when applying TPTH. EPA data do not support anecdotal assertions that pilots who make spray passes up wind avoid any pesticide exposure.

4. *Comment.* Aerial applicators apply about 75% of the fungicides to sugarbeets in Minnesota and North Dakota. These applicators are schooled in the safe application of pesticides. All field marking is done automatically and no people are in the field for this purpose during application. Ground boom sprayers are pulled with tractors with closed cabs and in most cases, air conditioned cabs which further reduces applicator exposure.

Response. The Agency has incorporated relevant protective measures, such as use of enclosed cabs and protective clothing in its revised risk assessment.

C. Public Comments and Agency Responses to the Benefits and Evaluation of Alternatives Contained in the PD 1

Over 490 comments to the TPTH PD1 were received and reviewed by the Agency for information useful to the assessment of fungicidal benefits of TPTH applications. Useful information includes that on efficacy, use practices, alternative control measures, economic impact, and extent of usage. The majority of the comments were endorsements of the benefits of TPTH for agricultural production. However, no data were submitted to support the benefits of TPTH in these testimonial comments. Responses to comments providing information on the benefits to TPTH are listed below.

1. *Comment.* Several sugarbeet grower groups commented on the comparative efficacy of mancozeb and TPTH for control of Cercospora leafspot. These groups stated that if TPTH were not available, greater amounts of mancozeb would be needed for disease control.

Response. The Agency agrees that additional mancozeb applications would be needed in the absence of TPTH for control of Cercospora leafspot. This information has been included in the sugarbeet site analysis.

2. *Comment.* The University of Georgia, College of Agriculture, Cooperative Extension Service, submitted information on both chemical and cultural control methods to reduce scab epidemics on pecans. The comment stated that scab is the major pecan disease in the state. Infection results in a decrease in nut weight and quality. The comment also mentioned that TPTH is the material that provides effective control of scab and other minor diseases on pecans. The low cost of the fungicide also makes TPTH a popular fungicide for pecan disease control.

The comment discussed the use of resistant varieties for control of scab. Most of the old resistant varieties found in pecan groves today were introduced because of their resistance to scab. However, the scab fungus has been able to overcome this resistance resulting in an increase in scab infection. The introduction of new pecan varieties does not provide acceptable scab resistance. The development of resistance by the scab fungus to introduced pecan varieties and the limited amount of available pecan germplasm indicate that varietal resistance may not be an acceptable method of control.

The comment also addressed registered alternative fungicides to TPTH, specifically benzimidazole fungicides (benomyl and thiophanate-methyl) and dodine. Applications of dodine result in a phytotoxic response to many pecan varieties. Pecan phytotoxicity to dodine was also addressed by several other comments from both the university and pecan grower community. Scab resistance to benzimidazole fungicides has been reported in several pecan orchards. Pest resistance has resulted in the failure of this class of fungicides to control scab.

Response. The Agency acknowledges the importance of TPTH for control of pecan scab and the lack of comparable chemical and non-chemical methods of scab control. This information was reflected in the pecan site analysis.

3. *Comment.* The North Dakota State University/University of Minnesota Cooperative Extension Service submitted data on the comparative performance of mancozeb and TPTH for control of Cercospora leafspot and subsequent yield effects on sugarbeets. The conclusions presented in the data indicated that TPTH was the most efficacious fungicide for control of Cercospora leafspot compared to EBDCs and an untreated control.

Response. The data provide a trend indicating that TPTH is a more

efficacious fungicide in terms of disease severity, total yields and recoverable sugar. However, these differences were not consistently statistically different. Thus, the Agency concludes sugarbeet growers could replace TPTH with mancozeb without facing a significant difference in marketable yields.

VII. Risk/Benefit Analysis

A. Summary of Risk

EPA has evaluated the risk posed by TPTH to workers mixing, loading and applying the pesticide to pecans, sugarbeets and potatoes. Developmental toxicity MOE estimates are greater than 100 for mixer/loaders using the flowable concentrate formulation, with the exception of applications to sugar beets at the maximum application rate with aerial/chemigation application (MOE of 84), based on conservative assumptions and a developmental NOAEL based on the highest dose tested, since no LOAEL was established. MOEs for mixer/loaders for the wettable powder formulation in water soluble bags for aerial/chemigation application are less than 100 (ranging from 33 to 82); however, the Agency believes these MOEs are actually over 100 given deficiencies in the exposure study used to model this formulation (see discussion in Unit IV.E. of this preamble). MOEs for applicators and harvesters are all greater than 100.

The cancer risks to mixer/loaders range from 1.0×10^{-6} to 6.3×10^{-5} for mixing/loading the liquid formulation, and range from 2.4×10^{-6} to 1.5×10^{-4} for mixing/loading the wettable powder formulation in water soluble bags (WSBs). The estimated risk for the wettable powder in WSBs for aerial/chemigation application is considered to be an overestimate of the actual risk (see Unit IV.E. of this preamble). Thus, mixer/loader cancer risks for all use scenarios are believed to be less than 1.0×10^{-4}. Cancer risks for TPTH applicators range from 1.1×10^{-6} to 3.8×10^{-5}. Cancer risks are less than 1.0×10^{-4} after 21 days and for pecan harvesters are less than 1.0×10^{-4} for post-application maintenance activities after 48 hours.

B. Summary of Benefits

If TPTH were unavailable, growers would have to use greater quantities of alternative fungicides. Some of these may not provide as effective control as TPTH. Reliance on available alternatives, without the ability to rotate in TPTH treatments, could also result in an increased likelihood of resistance development. Additional possible disadvantages of using alternative fungicides include phytotoxicity, limited availability due to local restrictions, and higher cost. Unavailability of TPTH could also result in increased use of EBDC fungicides, which are used at shorter intervals than TPTH and at higher rates, resulting in a higher overall volume of pesticide use and environmental loading.

C. Conclusions

Based on its risk and benefits assessment, the Agency has concluded that the risks associated with the use of TPTH in accordance with current label restrictions are not unreasonable. Therefore, benefits provided from the use of TPTH outweigh the risks.

VIII. Agency's Decision Regarding Special Review

EPA has concluded that the risks of TPTH are outweighed by the benefits of continued use. EPA proposes to terminate the Special Review examining the developmental toxicity of TPTH to workers. Label modifications highlighting teratogenic risks and requiring protective gear and the adoption of engineering controls (use of water soluble packs, closed mixing/loading systems, and mechanical transfer systems) have significantly reduced worker exposure to TPTH. The availability of dermal developmental data and data on dermal absorption have enabled the Agency to refine the 1985 risk assessment used in the PD 1, which assumed 100% dermal absorption and minimal worker protection. The risks associated with exposure to TPTH are thus considered to be outweighed by the benefits derived from its use. The Agency believes that exposure to TPTH does not pose an unreasonable risk to workers or the general public under currently labeled use conditions, which include classification as a Restricted Use Pesticide, engineering controls and protective clothing requirements.

IX. Bibliography

1. U.S. Environmental Protection Agency (USEPA). Triphenyltin Hydroxide Pesticide Registration Standard and Guidance Document, September 1984.

2. U.S. Environmental Protection Agency. Reregistration Eligibility Decision (RED): Triphenyltin Hydroxide (TPTH), November 1999.

3. U.S. Environmental Protection Agency. Triphenyltin Hydroxide: Toxicology Branch Chapter for the RED, Memorandum from John Doherty to Angel Chiri, March 22, 1999.

4. Rodwell, D. (1987). An Embryotoxicity Study in Rabbits with Tri-phenyltin Hydroxide: Laboratory Project No. WIL–39012. Unpublished study prepared by WIL Research Laboratories. 308 p. (MRID 40104801).

5. Carlton, B.D.; Connell, M.M. (1981). Final Report on Evaluation of the Teratogenicity of Triphenyltin Hydroxide (TPTH) in the Sprague-Dawley Rat: Project No. NO723–0200. (Unpublished study received Mar 2, 1982 under 148–689; prepared by Battelle, submitted by Thompson-Hayward Chemical Co., Kansas City, KS.; CDL:070696–A) (MRID 00094903).

6. Kavlock, Robert J. Triphenyltin Hydroxide Developmental Toxicology Study, EPA, Health Effects Research Laboratory, RTP, March 28, 1985.

7. Bates, D. (1985). A Teratology Study in Rats with Triphenyltin Hydroxide: Final Report: Project No. WIL–39011. Unpublished study prepared by WIL Research Laboratories, Inc. 371 p. (MRID 00144489).

8. Tasker, E. (1985). One Generation Teratology and Reproductive Study in Rats with Triphenyltin Hydroxide: Project No: WIL–39013: Final Rept. Unpublished study prepared by WIL Research Laboratories, Inc. 443 p. (MRID 00142878).

9. American Hoechst Corp. (1986). A Dietary Two-generation Reproduction Study in Rats with Triphenyltin Hydroxide: Final Report: Project No. WIL–39022. Unpublished study prepared by WIL Research Laboratories. 2,815 p. (MRID 00162655).

10. Carlton, B.D.; Howard, M. (1982). Final Report on the Evaluation of the Teratogenicity of Triphenyltin Hydroxide (TPTH) in the Syrian Golden Hamster: Project No. NO723–0100. (Unpublished study received Mar 2, 1982 under 148–689; prepared by Battelle, submitted by Thompson-Hayward Chemical Co., Kansas City, KS.; CDL:070697–A) (MRID 00094904).

11. Miller, Victor. Memorandum to Louis Kerestesy and Eric Ferris and Susan Lewis (all USEPA). Peer Review of Triphenyltin Hydroxide (TPTH), Tox. Chemical No. 896E. January 9, 1991.

12. Nemec, M. (1993). A Developmental Toxicity Study of Triphenyltin Hydroxide (TPTH) Administered Dermally in Rabbits: Final Report: Lab Project Number: WIL–160012. Unpublished study prepared by WIL Research Labs, Inc. 493 p. (MRID 42909101).

13. Tennekes, H.; Horst, K.; Luetkemeier, H.; et al. (1989). TPTH Technical (Code: HOE 029664 of ZD97 0004) Chronic Toxicity/Oncogenicity: 104-week Feeding Study in Rats: Laboratory Project ID No. 046980. Unpublished study prepared by Research & Consulting Co. AG. in cooperation with Experimental Pathology Services, ANAWA Laboratories AG and Cytotest Cell Research GmbH & Co. KG. 2116 p. (MRID 41085702).

14. Tennekes, H.; Horst, K.; Luetkemeier, H.; et al. (1989). TPTH Technical (Code: HOE 029664 of ZD97 0004) Oncogenicity: 80-week Feeding Study in Mice: Laboratory Project ID No. 047002. Unpublished study prepared by Research & Consulting Co. AG in cooperation with Experimental Pathology Services and ANAWA Laboratories AG and CCR. 1428 p. (MRID 41085701).

15. U.S. Environmental Protection Agency. Peer Review of Triphenyltin Hydroxide (TPTH), Memorandum from Roy Sjoblad to Jack Housenger, 1990.

16. Doherty, John and Copley, Marion. Memorandum to Jack Housenger (USEPA) and Cynthia Giles-Parker (USEPA).

Triphyltin Hydroxide: HED Peer Review Committee verification of the inclusion of rat pituitary data for quantitative carcinogenic risk assessment. June 29, 1992.

17. U.S. Environmental Protection Agency. TPTH (Triphenyltin Hydroxide): HED Revised Risk Assessment for the Reregistration Eligibility Decision (RED) Document, Memorandum from Sarah Levy to Loan Phan, September 21, 1999.

18. U.S. Environmental Protection Agency. Triphenyltin Hydroxide (TPTH)—Report of the Hazard Identification Assessment Review Committee, Memorandum from John Doherty and Jess Rowland to Christina Scheltema, November 13, 1998.

19. U.S. Environmental Protection Agency (USEPA). **Federal Register** Notice (61 FR 36298). July 10, 1996.

20. U.S. Environmental Protection Agency, Revised Occupational and Residential Exposure Assessment and Recommendations for the Reregistration Eligibility Decision Document for Triphenyltin Hydroxide (TPTH), Memorandum from Kelly O'Rourke to Sarah Law, September 14, 1999.

21. Bookbinder, M. (1995). Exposure of Workers Mixing/Loading Super-Tin 80WP (Triphenyltin Hydroxide: TPTH) Fungicide for Application to Pecan Groves in Georgia: (Final Report): Lab Project Number: AA930104. Unpublished study prepared by American Agricultural Services, Inc. and Griffin Corp. Chemical Services. 602 p. (MRID 43599401).

22. Lewis, Paul and Scheltema, Christina. Memorandum to Jude Andreasen (USEPA). Revised Occupational Risk Assessment for the Use of TPTH on Pecans. March 6, 1997.

23. Bookbinder, M. (1994). Exposure of Workers During Reentry into Pecan Groves Treated with Super-Tin 80WP (Triphenyltin Hydroxide: TPTH) Fungicide: Final Report: Lab Project Number: AA930102: AA930103. Unpublished study prepared by American Agricultural Services, Inc. and Case Consulting Labs, Inc. 1000 p. (MRID 43557401).

24. U.S. Environmental Protection Agency. Review of Reentry Data Submission to Support the Reregistration of Triphenyltin Hydroxide (TPTH), Memorandum from Jeff Evans to Eric Feris, March 1, 1993.

25. Chrysayi-Tokousbalides, M. and Giannopolitis, C.N. 1981. Cross-resistance in *Cercospora beticola* to triphenyltin and oligomycin. Plant Disease 65:267–268.

26. Stevenson, W. 1992. University of Wisconsin. Personal communication to P.I. Lewis (USEPA). March 9, 1992.

27. U.S. Environmental Protection Agency. Triphenyltin Hydroxide (TPTH) Benefits Analysis, Memorandum from Tara Chand-Goyal and John Faulkner to Robert McNally/ Loan Phan, August 15, 1999.

28. Latham, H.A. and Hammond, J.M. 1983. Control of *Cladosporium caryigenum* on pecan leaves and nut shucks with propaconazole (CGA–64250). Plant Disease 67:1136–1139.

29. Hare, J.D.; Logan, P.A.; and Wright, R.J. 1983. Suppression of Colorado potato beetle, *Leptinotarsa decemlineata*, (Say) (*Coleoptera: Chrysomelidae*) Populations with Antifeedant Fungicides. Environmental Entomology. 12:1470–77.

30. White, L.V. Griffin Corporation. 1991. Personal communication to J. Lamb. Jellinek, Schwartz, Connolly, Freshman, Inc. August 16, 1991.

31. Jones, R. 1992. University of Minnesota. Personal communication to P.I. Lewis. USEPA. March 25, 1992.

32. U.S. Environmental Protection Agency. Review of Supplemental Information (Letters, Faxes and E-Mails from the Growers, Commodity Groups and University Researchers) to Update TPTH Benefits Based on Fungicide Resistance Management on Pecans, Potatoes, and Sugarbeets, Memorandum from Tara Chand-Goyal to Nancy Zahedi/Robert McNally, November 1999.

33. Brown, S. Crocker, T.F., Ellis, H.C., and Hadden, J. (1991). Georgia pecan spray guide. The University of Georgia. Cooperative Extension Service. College of Agriculture.

34. McVay, J.R. Estes, P. Gazaway, W.S., Patterson, M.G. J.W. Everest and W.D. Goff. (1991). 1991 Commercial Pecan Insect, Disease and Weed Control Recommendations. Alabama Cooperative Extension Service. Auburn University, Auburn, AL. Circular ANR-27.

35. Littrell, R.H. and Betrand, P.F. (1981). Management of Pecan Fruit and Foliar Diseases and Fungicides. Plant Disease 65:769–774.

36. Horne, C.W., Amador, J.M., Johnson, J.D., McCoy, N.L., Philley, G.L., Lee, T.A., Kaufman, H.W., Jones, R.K., Barnes, L.W. and Black, M.C. (1988). Texas Plant Disease Handbook. B–1140. College Station, TX.

37. Amling, H.J. Everest, J.W. Goff, W.D. McVay, J.R. (1984). Pecan Production. Alabama Cooperative Extension Service. Circular ANR–54. Auburn University, Auburn, AL.

38. Latham, A.J. Carden, E.L., and McDaniel, N.R. (1988). Highlights of Agricultural Research. 35:10. Alabama Agricultural Experiment Station. Auburn University, Auburn, AL.

39. Stevenson, W.R. and Gilson, F.A. (1982). Control of potato early and late blight with foliar fungicide sprays, 1981. Fungicide and Nematicide Test Results. 37:157.

40. Stevenson, W.R., James, R.V., and Stewart, J.S. (1991). Wisconsin Vegetable Disease Trials—1990. University of Wisconsin.

41. Stevenson, W.R., Stewart, J., Pscheidt, J., and Sanderson, P. (1986). Evaluation of foliar sprays for control of potato early blight, 1985. Fungicide and Nematicide Tests. 41:105.

42. Binning, L.K. et al. (1991). Commercial Vegetable Production in Wisconsin. University of Wisconsin. Madison, WI.

43. Lamey, H.A. (1999). Department of Plant Pathology, North Dakota State University, Fargo, ND. Personal communications to Tara Chand-Goyal (USEPA) in October and November, 1999.

44. Ely, C. (1985). Covington and Burling. Washington, DC. Comments on behalf of American Hoechst Corporation, Duphar, Griffin Corporation, M&T Chemical Inc., and Wesley Industries, Inc. in Response to the Notice of Special Review for Pesticide Products Containing Triphenyltin Hydroxide (TPTH).

45. Lamey, H.A. (1991). North Dakota Plant Disease Control Guide. NDSU Extension Service. Fargo, ND.

46. Ravert, J.; Parke, G.S.E. (1976). Investigation of Teratogenic and Toxic Potential of Technical Triphenyltin Hydroxide: Laboratory No. 6E–524. (Unpublished study received Oct 18, 1979 under 148–689; prepared by Cannon Laboratories, Inc., submitted by Thompson-Hayward Chemical Co., Kansas City, KS; CDL:099051–A) (MRID 00086547).

List of Subjects

Environmental protection.

Dated: September 20, 2000.

Susan H. Wayland,

Acting Assistant Administrator for Prevention, Pesticides, and Toxic Substances.

[FR Doc. 00–27036 Filed 10–19–00; 8:45 am]

BILLING CODE 6560–50–F

Federal Register

Friday,
October 20, 2000

Part V

The President

Notice of October 19, 2000—Continuation of Emergency With Respect to Significant Narcotics Traffickers Centered in Colombia

Federal Register
Vol. 65, No. 204
Friday, October 20, 2000

Presidential Documents

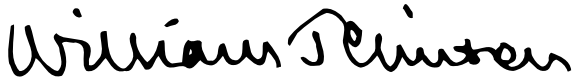
Title 3—

The President

Notice of October 19, 2000

Continuation of Emergency With Respect to Significant Narcotics Traffickers Centered in Colombia

On October 21, 1995, by Executive Order 12978, I declared a national emergency to deal with the unusual and extraordinary threat to the national security, foreign policy, and economy of the United States constituted by the actions of significant narcotics traffickers centered in Colombia, and the unparalleled violence, corruption, and harm they cause in the United States and abroad. The order blocks all property and interests in property of foreign persons listed in an Annex to the order, as well as persons determined to play a significant role in international narcotics trafficking centered in Colombia, to materially assist in, or provide financial or technological support for or goods or services in support of, narcotics trafficking activities of persons designated in or pursuant to the order, or to be owned or controlled by, or to act for or on behalf of, persons designated in or pursuant to the order. The order also prohibits any transaction or dealing by United States persons or within the United States in such property or interests in property. Because the activities of significant narcotics traffickers centered in Colombia continue to threaten the national security, foreign policy, and economy of the United States and to cause unparalleled violence, corruption, and harm in the United States and abroad, the national emergency declared on October 21, 1995, and the measures adopted pursuant thereto to deal with that emergency, must continue in effect beyond October 21, 2000. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency for 1 year with respect to significant narcotics traffickers centered in Colombia. This notice shall be published in the **Federal Register** and transmitted to the Congress.



THE WHITE HOUSE,
October 19, 2000.

[FR Doc. 00–27250
Filed 10–19–00; 12:30 pm]
Billing code 3195–01–P

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–523–6641. This list is also available online at http://www.nara.gov/fedreg.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at http://www.access.gpo.gov/nara/index.html. Some laws may not yet be available.

H.R. 1162/P.L. 106–295

To designate the bridge on United States Route 231 that crosses the Ohio River between Maceo, Kentucky, and Rockport, Indiana, as the ''William H. Natcher Bridge''. (Oct. 13, 2000; 114 Stat. 1043)

H.R. 1605/P.L. 106–296

To designate the Federal building and United States courthouse located at 402 North Walnut Street in Harrison, Arkansas, as the ''J. Smith Henley Federal Building and United States Courthouse''. (Oct. 13, 2000; 114 Stat. 1044)

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To extend the authorization for the Air Force Memorial Foundation to establish a memorial in the District of Columbia or its environs. (Oct. 13, 2000; 114 Stat. 1062)

H.R. 4642/P.L. 106–303

To make certain personnel flexibilities available with respect to the General

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H.R. 4806/P.L. 106–304
To designate the Federal building located at 1710 Alabama Avenue in Jasper, Alabama, as the ''Carl Elliott Federal Building''. (Oct. 13, 2000; 114 Stat. 1071)

H.R. 5284/P.L. 106–305
To designate the United States customhouse located at 101 East Main Street in Norfolk, Virginia, as the ''Owen B. Pickett United States Customhouse''. (Oct. 13, 2000; 114 Stat. 1072)

H.J. Res. 111/P.L. 106–306
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S. 366/P.L. 106–307
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S. 1794/P.L. 106–308
To designate the Federal courthouse at 145 East Simpson Avenue in Jackson, Wyoming, as the ''Clifford P. Hansen Federal Courthouse''. (Oct. 13, 2000; 114 Stat. 1077)

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